

UNDER THE ACCOUNTABILITY MICROSCOPE

Canadian Indigenous Accountability Policies, 2006 to 2016

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ABSTRACT

Political commentary, including discussion of Indigenous accountability, regarding nation to nation relationship building with Canada's Indigenous nations has increased significantly since the federal election in October 2015. However, little academic research exists that assesses how prepared Canada's public administrators are to implement such a vision. This thesis seeks to address this gap by exploring the role of accountability in the government's relationship with First Nation communities. In particular, it investigates how the Conservative Government's Indigenous accountability policies changed during their tenure from 2006-2016 and how these changes affected the Crown's relationship with First Nation communities. The evidence collected through this project supports the argument that New Public Management, Canada's current model of Public Administration, is fundamentally incapable of fostering an authentic nation to nation relationship as envisioned by many First Nation communities and Indigenous organizations. Communities remain subservient to the Crown through top-down Ministerial accountability, which remains firmly in place ten years later. Moreover, attempts to reduce program reporting requirements on First Nation communities has not resulted in any significant reduction in their reporting burden. This thesis argues that meaningful engagement with First Nation communities is a crucial interim step toward a new administrative framework that enables greater Indigenous self-determination.

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DEDICATION

I dedicate this thesis to two families. First, to my Ontario Ranger family. My summers stationed at Wade Lake afforded me some incredible work opportunities across Northeastern Ontario, including many memorable train rides aboard the Polar bear Express to Moosonee to work alongside the Moosecree First Nation in Moose Factory, ON. The program exposed me to the powerful resilience of Indigenous peoples despite the formidable challenges they face. Secondly to Mary Paul, Shane Paul, Craig Paul, Mary-Ellen Sappier, and Nolan Sappier of Woodstock First Nation in New Brunswick. Your family inspires and motivates me more than you probably realize. An extra shout-out to Mary—you've always made me feel like I was your own son. Thank you for embracing and supporting me over the years, and you can count on future Christmas day visits.

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INTRODUCTION

In 2006, the newly elected minority Conservative government introduced the *Federal Accountability Act* and the accompanying action plan, as promised during their election campaign (Government of Canada, 2006; Treasury Board of Canada Secretariat, 2006). However, their focus on accountability and transparency did not end there. They implemented further policies affecting First Nation communities, labour unions, and charities after finally achieving majority government status in 2011 (Bryden 2015; The Canadian Press 2015; H. King 2014; Indigenous and Northern Affairs Canada 2015b). With respect to First Nation communities, the government passed the First Nation Financial Transparency Act (FNFTA) in March 2013. The act requires band councils to publicly post online all financial audits, including privately acquired funds within specific timelines, and allowed the government to withhold non-essential funding should communities fail to comply (Indigenous and Northern Affairs Canada 2015b).

Some Indigenous leaders agreed with the FNFTA while others viewed its passing as a reassertion of paternalistic power relations between the government and Indigenous peoples (H. King 2014). Among their concerns, they believed the act painted an unfair perspective of the financial governance practices in First Nation communities. For example, some argued that Canadians are unaware the government already had the power to withhold funding to communities and many already voluntarily disclosed their financial information to their members (H. King 2014; Jones 2015). Moreover, community members could obtain financial information by requesting access to annually submitted reports to the federal government (Jones 2015; Indigenous and Northern Affairs Canada 2015b). Despite the government's uncertainty, the vast majority of communities appropriately manage their finances (Jones 2015; H. King 2014). As a result, some Indigenous leaders allege that the act was little more than a strategy to subvert their right to self-determination by reinforcing external federal government control over internal community affairs (Jones 2015; King 2014).

Legal challenges quickly ensued after the passage of the FNFTA. The federal government exerted its power under the new law to withhold funding and initiated legal action against five First Nation communities to force compliance with it. However, the FNFTA's future became uncertain after the election of a majority Liberal government in October 2015. In December 2015, the new Minister of Indigenous and Northern Affairs Canada (INAC), Carolyn

Bennett, ordered a halt to “all discretionary compliance measures” under the legislation, a reinstatement of withheld funding from Indigenous communities, and the suspension of all legal proceedings against non-complying communities (Bennett 2015).

Groups such as the Conservative opposition and the Canadian Taxpayers Federation, among others, criticized the government’s actions on the basis that it reduces financial accountability and transparency in First Nation communities (Conservative Party of Canada 2015; Pedwell 2015). Conversely, several Indigenous leaders praised the government’s actions, arguing they never opposed strengthening accountability mechanisms in their communities. Rather, they dispute unilaterally imposed government measures that perpetuate historic power relations between the Crown and Indigenous peoples. These competing perspectives were represented by Chris Alcantara in his 2012 editorial for the Toronto Star. He concluded by saying: “Overall, the results of this legislation should be positive in terms of improving accountability and transparency between band councils and band members. The same cannot be said, however, for the relationship between the Crown and Aboriginal peoples. (Alcantara 2012).

Mixed reactions to the FNFTA and Minister Bennett’s changes to it demonstrate that accountability is an important aspect of Canada’s relationship with Indigenous peoples. However, no concrete details concerning replacement policies have yet been publicly shared. Moreover, little academic research exists that assesses how the implementation of the Conservative Government’s Indigenous accountability policies changed from previous government approaches. This thesis addresses this gap. It evaluates how the federal government’s Indigenous accountability policies changed from 2006 to 2016 and discusses its impact on the Crown’s relationship with First Nation communities.

This thesis advances two main arguments. The first argument contends that New Public Management is an inadequate model of public administration in fostering an authentic nation-to-nation relationship with First Nation communities. Under current program arrangements, NPM reinforces First Nation community subordination to the Crown through top-down Ministerial accountability, despite some reductions to the program reporting burden on First Nation communities and some increases in the administrative and policy control over their programs.

This thesis’s second argument contends that meaningful consultation and engagement of First Nation communities is key to the long-term success of any new federal government Indigenous accountability framework. Further to this point, the perspectives of off-reserve First

Nation community members, particularly urban— and largely younger people — must be recognized. The proportion of off-reserve, urban community members is increasing compared to on-reserve members. This trend poses some challenges to the sustainability and legitimacy of community governance and funding structures imposed under the Indian Act. In particular, it is not clear how urban members remain engaged in their community's local governance. It is also not obvious how being off-reserve affects the constitutional and legal benefits afforded to these members.

Nation-to-nation relationship and meaningful consultation are defined within the context of the two-row wampum belt that some First Nation communities and Indigenous leaders have publicly referred to. Michael Asch touched on this definition in his book *On Being Here to Stay: Treaties and Aboriginal Rights in Canada*. He quoted a 1996 letter from the Mohawk Nation Council of Chiefs to the Assembly of First Nations on their interpretation of the two-row wampum belt. They stated:

We will not be like father and son, but like sisters and brothers. These two rows will symbolize vessels, travelling down the same rivers together. One will be for the canoe of the Onkwehonwe and their laws, their customs. The other will be for the sailing ship of the European people and their laws and customs. We will each travel the river together, but each in our own boat, neither of us will try to steer the other's vessel (Mohawk Nation Council of Chiefs 1996).

On a similar vein, The Assembly of First Nations defines a nation-to-nation relationship in the context of the Royal Proclamation. They stated:

The Royal Proclamation of 1763 and Treaties entered into between the Crown and First Nations embody a nation-to-nation relationship, based on the right of self-determination and the principles of peaceful coexistence and sharing...The Crown and First Nations need to reset and renew the relationship, based on the principles of self-determination and the spirit and intent of Treaties, as understood by First Nations. New mechanisms and processes need to be put in place to reaffirm and rebuild the nation-to-nation relationship (Assembly of First Nations 2012, 4).

For the purposes of this thesis, meaningful consultation is rooted in the concept of 'The Honour of the Crown' as defined by the Supreme Court of Canada in *Haida Nation V. British Columbia* in 2004. The case introduced the concept to Aboriginal law in that the Crown must act honourably and in good faith in its dealings with First Nation communities (Isaac 2012; Newman 2014). That is to say that consultation is not merely a small box on a project checklist. First

Nation community perspectives are to be given serious weight in the development and implementation of projects that are known to adversely impact their rights.

This thesis is broken down into six sections. Section one provides a factual overview of changes to the federal government's Indigenous accountability policies since 2006. Section two is a review of existing academic literature on Indigenous financial accountability mechanisms, and provides this project's theoretical framework. Section three consists of the project's methodological approach and a description of the methods used. Section four explores Indigenous reactions to the First Nation Financial Transparency Act and the government's accountability approach with First Nation communities. Section five explores the perspectives of government officials on changes to federal Indigenous accountability policies since 2006. Section six concludes this thesis by providing an overall analysis of what these changes mean in relation to nation to nation relationship building and consultation with Indigenous peoples, and approaches forward.

CHAPTER 1 - WHAT CHANGED SINCE 2006?

Several administrative reforms were introduced to First Nation funding arrangements during the last ten years in response to ongoing criticisms of the government's funding arrangements. Funding arrangements were largely criticized for hindering many First Nations from transitioning to self-government despite the implementation of progressive funding arrangements in the mid-1980's¹. For instance, in 2002, 2006, and 2011, the Office of the Auditor General criticized Indigenous and Northern Affairs Canada (formerly Aboriginal Affairs and Northern Development Canada) for its unnecessarily byzantine funding arrangements that included excessive and redundant accountability reporting requirements on First Nation communities. Likewise, in 2006, the Treasury Board implemented an Independent Blue Ribbon Panel on Grant and Contribution Programs to evaluate how government wide grants and contributions funding could be more efficient, which included reporting requirements embedded in First Nations funding arrangements.

¹ The Penner Report on Indian self-government was released in 1983. The report called on the government of the day to move towards a grants funding; failing that, they recommended a per capita funding formula for communities that would "ensure equity and greatly facilitate disbursement" (Penner 1983, 145). The goal of a new funding approach was to enable self-determination and self-government.

In 2012, the Conservative government introduced the *Reducing the Administrative Burden on First Nations Initiative*. The initiative aimed to reduce and consolidate the onerous administrative requirements that were placed on First Nation communities under INAC's complex funding arrangements. In addition to this initiative, INAC reconfigured their funding arrangements to standardize funding arrangements across all regions. Up until that point, funding arrangements consisted of four different funding agreements, each of which offered agreement specific funding authorities² that depended on a community or program's risk level. The old funding arrangements are shown in the following table.

TABLE 1: INAC Funding Arrangements 1980's – 2010

Funding Agreement	Available Funding Agreement Authorities	Agreement Duration
Contribution Agreement (CA)	1. Contributions	Annual
Comprehensive Funding Arrangement (CFA)	2. Contributions 3. Flexible Transfer Payment (FTP) 4. Grant	Annual
DIAND/Canada-First Nation Funding Arrangement (CFNFA)	1. Alternative Funding Arrangement (AFA) 2. Targeted Funding Contributions	Up to five years
Self-Government Financial Transfer Agreement	1. Grant	No specific duration.

Source: Shepherd 2006

Despite the availability of different arrangements under old arrangements, no standardized national risk assessment process existed at the time, leading to inconsistent interpretations of program risk across INAC regions. Consequently, funding arrangements were inconsistently administered across regions. One 2008 INAC report noted that "risk management, accountability and flexibility are not well balanced within funding arrangements, either in terms of the amount of money involved, the nature of the program, or the capacity of the recipients"

² A funding authority is a tool established by the Treasury Board that authorizes a department to transfer funds to a recipient, and it prescribes how those funds can be managed.

(Indian and Northern Affairs Canada 2008). Moreover, program design unintendedly restricted First Nation communities from progressing to more financially liberal block funding approaches, i.e. moving from a contribution agreement to using an Alternative Funding Arrangement (AFA) under the Canada-First Nation Funding Agreement that allowed block funding up to five years³.

Under their reform initiatives, INAC took several steps to rectify these problems, including the development of a standardized risk assessment process called the General Assessment (GA). The GA was created with two goals in mind: to standardize program risk assessment across all INAC regions, and to re-design previous attempts at incentivizing communities to move towards revised block funding arrangements. Under the GA, First Nation communities would be assessed as either low, medium, or high risk using a set of standardized benchmarks in four different categories: governance, performance history, financial stability, and planning and project complexity. The idea being that a community's final score would inform the level of government intervention needed in funding arrangements. For example, communities labeled as high-risk would be given less flexible funding arrangements compared to those deemed low-risk.

Funding authorities and funding agreements were simultaneously re-formulated to match the standardized and incentivized approach adopted under the General Assessment. Under the Treasury Board's new transfer payments policy in 2008 (that INAC adopted in 2011) new funding authorities were created and combined with old ones to offer a total of five funding authorities to be consistently applied across all funding agreements. They are: Set, Fixed, Flexible, Block, and Grant. The funding agreements were overhauled to accommodate the new funding authorities. The combination of these changes, allow for tailored funding compared to more rigid arrangements under the previous model. Table 2 and Table 3 below, list the new funding authorities and the new funding agreements.

³ In response to the Penner report, the government introduced the Alternative Funding Arrangement—a block funding approach that gave communities greater flexibility in spending program funds. Unfortunately, the uptake was low by many communities because it was a fixed-cost approach that didn't adequately keep pace with rapid population growth in communities, resulting in funding shortfalls from increased demand for community services. As a result, many communities felt the financial flexibility afforded by the AFA was not worth it.

TABLE 2: INAC Funding Agreement 2010 – Present

Type of Agreement	Description
<i>First Nations and Tribal Councils National Funding Agreement</i>	<ul style="list-style-type: none"> • Available to First Nation and tribal council recipients. • Considered the “default” and basic agreement, similar to that of the CFA.
<i>Streamlined Funding Agreement Model for First Nations</i>	<ul style="list-style-type: none"> • Only available to First Nations communities. New agreement type. • An optional agreement that uses plain language, removes complex terminology, and reduced delivery terms and conditions.
<i>Canada Common Funding Agreement Model</i>	<ul style="list-style-type: none"> • A harmonized funding agreement for First Nation communities and Tribal Councils that receive funding from Health Canada and INAC. Similar to CFNFA. • Requires one set of consolidated audited financial statements instead of two, and combines, and reduces the recipient reporting requirements of each department into one set of requirements.
<i>Plain/Simplified Funding Agreement Model for Project Funding</i>	<ul style="list-style-type: none"> • Similar to the Streamlined Funding Agreement Model for First Nations, but is available for funding recipients that are not a First Nation community or Tribal Council, and is for proposal-based funding. • Used when a funding recipient does not have any other agreement in place with INAC. Similar to Contributions Agreement (CA).
<i>Funding Agreement Model for Other Recipients</i>	<ul style="list-style-type: none"> • Used for program, project, or service delivery by a recipient other than First Nation communities and tribal councils (with the exception self-governing First Nations for programs, projects and services not covered by their agreement).

Source: Indigenous and Northern Affairs Canada 2016

TABLE 3: Funding Authorities under the Treasury Board’s 2008 Policy on Transfer Payments

Funding Authority	Key Attributes	Duration
<i>Grant (Same as Grant)</i>	<ul style="list-style-type: none"> • Can be used in any manner related to the program, project, or initiative being funded. • No performance conditions. • Unspent funds remain with the recipient. 	Any duration
<i>Set (Same as Contribution)</i>	<ul style="list-style-type: none"> • Funding must be spent as stipulated in the funding agreement and cannot be transferred to any other program, project, or service. • Strict performance measurement conditions apply. • Unspent funds (if applicable) must be returned. 	Annual
<i>Fixed (Revisions to FTP)</i>	<ul style="list-style-type: none"> • Funding is based on a formula or a fixed-cost basis. • Funds cannot be transferred to other projects or programs, unless authorized. • Surpluses may be retained by the recipient, and carried forward and applied to the same program. 	Annual

<i>Flexible (Variant of FTP)</i>	<ul style="list-style-type: none"> Funds can be used within the same cost-categories of the program being funded. An established relationship of two years must exist between the donor and recipient. Available to communities with a lower range General Assessment score. Unspent funds remaining upon expiry must be returned. 	Multi-year – Up to 10 years
<i>Block (Revisions to AFA)</i>	<ul style="list-style-type: none"> Funds can be redistributed and reallocated to other programs within the block as identified in the funding agreement. Available to communities with a lower range General Assessment score. Unspent funds may be retained, and re-allocated to other projects or programs in the block. 	Multi-year – Up to 10 years.

Source: Indigenous and Northern Affairs Canada 2011a

In addition to these new arrangements, INAC introduced several short-term proposal based programs, which is particularly evident in the department's education programs. Under the elementary and secondary education program area, there are four complementary sub-programs all of which are restricted to the set funding authority, the least flexible of the five funding authorities (Indigenous and Northern Affairs Canada 2015c). The four programs are:

- High Cost Special Education Program
- New Paths for Education
- Education Partnerships Program
- First Nation Student Success Program

The general objective of these complementary programs is to support core education funding by providing targeted financial resources to improve literacy, numeracy, and student retention.

CHAPTER 2 – FRAMING THE PROBLEM

Existing Literature and Theory

The lack of research concerning accountability in the Indigenous context is particularly acute. Only a handful of Canadian scholars have touched on this subject in any meaningful way, including Ken Coates at the University of Saskatchewan; Robert Shepherd, Frances Abele, and Hayden King at Carleton University; Chris Alcantara at the University of Western Ontario, Michael Prince at the University of Victoria and, Shin Imai at York University (Abele and Prince 2003; Coates 2008; Alcantara, Spicer, and Leone 2012; Alcantara 2012; Shepherd 2006; Imai 2007; H. King 2014). Robert Shepherd's 2006 PhD dissertation aligns closest with this research

subject. His work represents my initial ideas on this subject. I was also referred to his work by Dr. Frances Abele of Carleton University. Lastly, the completion of Shepherd's doctorate in 2006 provides a solid reference point to evaluate changes to the federal government's Indigenous accountability policies under the tenure of the previous government⁴.

Shepherd's dissertation investigated the balance between the federal government's external control over local Indigenous community governance and the internal control of community members over their local band government. He framed his work under the context of public administrative reform in Canada, specifically the shift from Traditional Public Administration to New Public Management. Shepherd evaluated this balance using adapted versions of Barbara Romzek and Melvin Dubnick's four sub-types of accountability: professional, political, bureaucratic and performance (Romzek and Dubnick 1987; Romzek 2000). However, he referred to hierarchical as bureaucratic and legal as performance (Shepherd 2006, 59). This thesis is based on a simplified version of Robert Shepherd's theoretical framework. Only Romzek and Dubnick's bureaucratic and performance accountability sub-types are used instead of all four. Both are analyzed under the context of New Public Management.

Bureaucratic accountability is a traditional administrative approach to achieving accountability through strictly defined hierarchies, including superior-subordinate relationships (Romzek and Dubnick 1987). Shepherd (2006) noted that bureaucratic accountability is based on "close supervision of individuals who have low work autonomy and are subject to strict internal command and control based on explicit rules and regulations" (Shepherd 2006, 63). Under this approach, Indigenous communities were viewed as extensions of the Department of Indian Affairs instead of more localized and autonomous organizations. This resulted in strict administrative and policy control by the government (Shepherd 2006). Shepherd further noted, "Executive directives, administrative program checklists and guidelines, and narrow span of supervision exemplify control within this accountability type" (2006, 64).

Performance accountability is a product of administrative reform that saw a shift towards a results-based approach under New Public Management. The use of centralized performance accountability mechanisms is a key element of New Public Management. In theory, they allow for increased autonomy in the delivery of programs and services at the local level; however, the

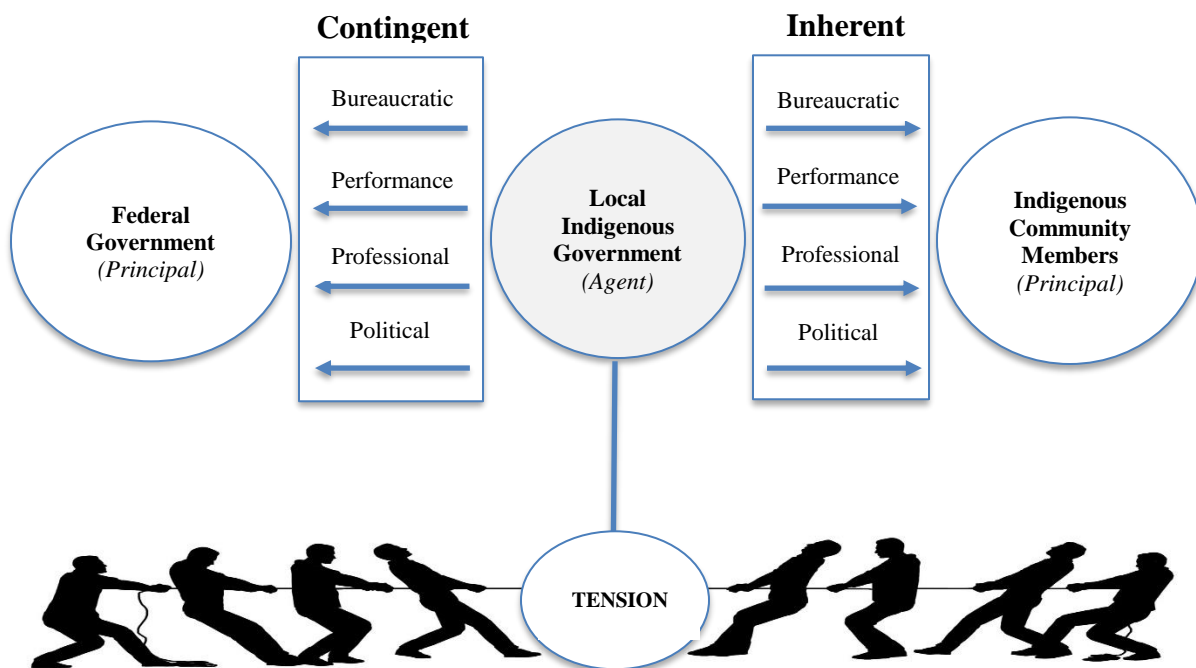
The previous Conservative Federal Government was in power from February 2006 – October 2015.

performance or effectiveness of these programs and services are evaluated against a set of centralized measures typically developed at the senior management or executive level. Romzek and Dubnick note:

In the bureaucratic system, the relationship is hierarchical and based on the ability of supervisors to reward or punish subordinates. In legal [performance] accountability, however, the relationship is between two relatively autonomous parties and involves a formal or implied fiduciary (principal/agent) agreement between the public agency and its legal overseer (Romzek & Dubnick 1987, 229).

Canada's First Nation communities operate under dual accountability: they are both accountable to the federal government and their community members. Shepherd applied dual accountability as an overlay over Romzek and Dubnick's four accountability sub-types. He defined the communities' accountability relationship with the Crown as 'contingent' and their relationship with their community members as 'inherent', which is visualized below.

Contingent and Inherent Accountability with Romzek and Dubnick's Sub-types



Contingent and Inherent accountability can be seen as a proverbial tug-of-war between the Crown's accountability demands on First Nation community governments and the accountability demands of First Nation community members on their local government. This

causes competition between the accountability demands of the federal government and the First Nation community members (Abele & Prince, 2003; Alcantara et al., 2012; Coates, 2008; Imai, 2007; Shepherd, 2006). Not only do they represent the spatial direction of the accountability relationship, they highlight the sources of control and authority to which the agent is accountable. The agent, the principal, sources of control, and degrees of control are well-documented in accountability literature. Staffan Lindberg (2009) assessed the literature to determine shared elements of accountability. He found the following five high-level characteristics:

1. An agent or institution who is to give an account (*A* for agent);
2. An area, responsibilities, or domain subject to accountability (*D* for domain);
3. An agent or institution to whom *A* is to give account (*P* for principal);
4. The right of *P* to require *A* to inform and explain/justify decisions with regard to *D*; and,
5. The right of *P* to sanction *A* if *A* fails to inform and/or explain/justify decisions with regard to *D* (8).

Lindberg's general set of conditions demonstrate that accountability is both expressed as a relationship and a process (Romzek & Dubnick, 1987; Shepherd, 2006; Stone, 1995). For instance, the agent outlined in characteristic one has an accountability relationship with the principal identified in characteristic three. Furthermore, processes are discernible in characteristic five where the principal evaluates the agent's actions against a set of standards, procedures or expectations.

In relation to Canada's Indigenous accountability policies, Shepherd found that bureaucratic and performance accountability constitute the predominant sub-types observed in the contingent accountability profile (Shepherd 2006). He noted:

With regard to bureaucratic accountability, arrangements between government and First Nations focus on the processes of service delivery. Performance accountability focuses on outputs and outcomes. In both cases, the accountability relationship between First Nations and federal and provincial/territorial donors is "contingent" upon adhering to established rules and procedures outlined in funding and other administrative arrangements (60).

Shepherd found that the Crown's performance and bureaucratic accountability measures within First Nation communities reinforce top-down Ministerial accountability. He explained that "funding and other benefits of the federal and provincial Crowns are contingent upon respecting

governmental accountability requirements”. As a result, he believes contingent accountability is a “specific understanding and application of Ministerial accountability as it relates to First Nations” (Shepherd 2006, 61). Ministerial accountability refers to the hierarchical path of accountability from the bureaucracy up to the Minister, who is accountable to Parliament and, ultimately, the public. In this arrangement, the public is seen as the principal (the source of authority to govern). Politicians are the actors who are carrying out the authority to govern granted by the electorate.

Shepherd explains that inherent accountability can take on different arrangements depending on the community. He found that “traditional practices or processes consistent with past practice” often inform the design of modern day community accountability processes (61). Furthermore, he found that a community’s traditionally based accountability framework overlaid the imposed administrative system required by outside governments” (2006, 61/62). Specifically, these are imposed electoral and administrative systems under the Indian Act in this case.

Shepherd’s research concluded that government control over First Nation communities increased in spite of greater community delivery of federal government programs and services. Under New Public Management, performance-based reporting requirements were instituted as a condition of funding during administrative reform. However, these accountability requirements blurred the lines between Traditional Public Administration and New Public Management. Government scrutiny over First Nation community affairs actually increased as they had to “demonstrate that they have achieved donor results on a program-by-program basis” (2006, 73). This approach is based on New Public Management’s focus on private sector ideals and centralized corporate control over policy development and implementation. However, corporate control is exerted through traditional bureaucratic management arrangements. Shepherd notes:

Overall, these governmental preferences have been framed in part by NPM that emphasizes strong central policy control and higher efficiency through privatization and devolution of responsibilities. Such constant pressure to ensure costs are contained have informed most public sector management decisions with respect to First Nations governance. Such preferences are evident in the manner the federal government has framed its accountability relationship with First Nations under conditions of devolution and its shift of attention to results versus process. In this respect, the motivation for strong federal control has remained virtually unchanged from the TPA management orientation (Shepherd 2006, 420-421).

Ultimately, Shepherd found that the accountability relationship between First Nation communities and the federal government was based on the community's compliance with the terms and conditions of their funding agreements instead of demonstrating actual program and service performance (Shepherd 2006, 433).

CHAPTER 3 – RESEARCH METHODOLOGY AND METHODS

Data for this project was collected through a combination of semi-structured interviews and document analysis. Semi-structured interviews improve upon the depth of information and insights found through document analysis. They allow participants to explain their experiences and stories regarding a given phenomenon. They also allow the researcher to respectfully probe for further explanation since the researcher is not bound by a set of strict questions (Clandinin and Connelly 1996). As a result, information that was not originally anticipated can add richness to the overall dataset.

Document analysis is a systematic procedure for reviewing and evaluating both printed and electronic documents. It requires that data be examined and interpreted in order to draw meaning, gain understanding, and develop empirical knowledge (Bowen 2009). Through a process of skimming, reading, and interpretation; document analysis allows researchers to identify “meaningful and relevant passages of text or other data” (Bowen 2009). However, documents must be critically analyzed as not all are precise, accurate, and complete. Bowen (2009) notes “It is necessary, as well, to determine the authenticity, credibility, accuracy and representativeness of the selected documents” (33).

Document analysis is most effective when used in combination with other data collection methods (24). For example, semi-structured interviews and document analysis are a complementary set of research methods and proved to be a successful combination for this project. In this case, an analysis of select gray literature from Indigenous and Northern Affairs Canada allowed for a targeted approach to interview participant selection, the development of insightful interview questions and more relevant interview probing.

Interviews

Four semi-structured interviews were conducted with senior officials from the Department of Indigenous and Northern Affairs Canada, including two from the head office in Gatineau, QC and two from INAC's Saskatchewan regional office in Regina, SK. Convenience and snowball non-probability sampling methods were used to identify appropriate interview

participants within INAC. Initial contact with departmental officials came through a professional contact of Ken Coates, this project's faculty advisor, who facilitated formal introductions with other civil servants relevant to this project in the department.

Initially, only three INAC perspectives were sought from the department's head office in Gatineau, QC. However, it was apparent that regional perspectives were needed after the first two interviews with officials from the head office to better understand how changes to accountability policies impacted ground operations and how First Nation communities reacted to them. As a result, two counterbalancing regional perspectives were sought from Saskatchewan's regional office in Regina, SK. During the project's data analysis phase, it was clear that both perspectives were critical in providing a more comprehensive understanding of how the government's Indigenous accountability policies changed over the last ten years.

Semi-structured interview questions with INAC officials were categorized into three themes: reporting requirements; balance of federal government accountability and local autonomy; and participatory governance. The first two themes measured how the federal government's policy and administrative control changed since 2006. The third theme was used to gauge, in a preliminary manner, the extent of digital online participation in community governance. Government officials were each asked the same set of questions; however, open-ended discussion followed each line of questioning which included follow-up questions that were tailored to their initial responses.

Questions under the reporting requirements theme measured the effectiveness of government efforts to reduce the administrative burden on First Nation communities from 2006-2016. INAC officials were asked to walk through the major steps the department had taken to streamline program reporting requirements for First Nation communities. Secondary questions asked whether these efforts reduced the overall number of reporting requirements on First Nation communities, and the approximate number of reports required from the average community.

The second line of inquiry measured how government efforts balanced federal accountability requirements with the local needs of First Nation communities. INAC officials were asked three main questions under this theme. Officials were first asked to describe acceptable accountability standards that they look for when developing funding agreements. They were then asked whether First Nation community authority over administrative policies had

increased or decreased over the last ten years. The final question asked if the department's accountability policies implemented over the last ten years were bureaucratically based or performance evaluation based, or a mix of both⁵. Secondary questions to the third main question asked officials to provide some examples of either policy type, and how the First Nations Financial Transparency Act (FNFTA) fit into either category.

The third line of inquiry focused on participatory governance, and the inclusion of First Nation perspectives in policy development. Officials were asked two main questions. The first asked whether any digital technologies were used with First Nation communities to solicit their participation in federal policy development concerning First Nation governance, and if so, the prevalence. The second main question asked if there was a future role for or growth in digital technology in strengthening First Nation community participation in federal policy development concerning First Nation governance.

Document Analysis

Document analysis was the sole source of information relating to Indigenous perspectives on the FNFTA, and provided helpful context around changes to the federal government's Indigenous accountability policies. In particular, meeting minutes from the House of Commons Standing Committee on Aboriginal Affairs and Northern Development and the Senate Standing Committee on Aboriginal People were used. Both committee's provided a multi-day platform for Indigenous individuals to express their perspective on the Bill C-27, the First Nations Financial Transparency Act.

Witnesses for each standing committee consisted of politicians, bureaucrats, representatives from Indigenous organizations, First Nation community leaders and their support staff, and First Nation community members. To ensure an equal representation of Indigenous voices, the perspective of a national Indigenous organization⁶, a First Nation community leader, and a First Nation community member were used for this project. A number of representatives

⁵ Definitions of bureaucratic and performance are provided in the literature review section.

⁶ An national Indigenous organization for the purposes of this project are the five national Indigenous representative organizations recognized by the Government of Canada: the Assembly of First Nations, the Native Women's Association of Canada, the Metis Nation Council, Inuit Tapiriit Kanatami, and the Congress of Aboriginal Peoples. While imperfect, a national Indigenous organization is preferred over smaller organizations as they have a wide base to represent.

for each category were available between both committees, which is highlighted in the following table.

Table #1: Bill C-27 Witness List by National Indigenous Organization, First Nation Community Leaders, and First Nation Community Members.

National Indigenous Organization	First Nation Community Leader	Community Member
Jody Wilson-Raybould, Regional Chief Assembly of First Nations	Chief Roland Twinn Sawridge First Nation	Michael Benedict Odanak First Nation
Ron Swain, National Vice Chief Congress of Aboriginal Peoples	Councillor Clarence Paupanekis Norway House Cree First Nation	Beverly Brown, Appearing as an individual Squamish First Nation
	Chief Darcy Bear Whitecap Dakota First Nation	John G. Paul Membertou First Nation
	Craig Makinaw, Confederacy of Treaty Six First Nations	

Source: (House of Commons Standing Committee on Aboriginal Affairs and Northern Development 2016; Senate Standing Committee on Aboriginal Peoples 2016)

The perspectives of Jody Wilson Raybould, Chief Darcy Bear, and Beverly Brown were selected to represent the three strata of Indigenous perspectives. The Assembly of First Nations, as represented by Wilson-Raybould, was selected as it represents status First Nation communities. This is important as the FNFTA does not apply to Metis or non-status First Nation peoples, which the Congress of Aboriginal Peoples represents. Wilson-Raybould's multiple testimonies also provide a more comprehensive examination of the government's Indigenous accountability approach beyond Bill C-27.

Chief Darcy Bear from Saskatchewan was selected for his balanced perspective on Bill C-27, which is favored over the other more extreme views. Secondly, John Duncan, the former Minister of Aboriginal Affairs and Northern Development Canada, stated in his committee testimonies that Chief Bear was a key figure involved in consultation for Bill C-27. However, as explored in section four and five, it was found that little to no national consultation occurred for Bill C-27. Interestingly, despite Chief Bear's support for Bill C-27's spirit and intent, his

testimony touched on the importance of First Nation self-determination, something critics believe the proposed legislation restricted.

The general criteria for selecting the perspective of an individual First Nation community member was to find the most average case possible. Beverly Brown matched this criteria better than the other three. Michael Benedict would have been the next choice had Ms. Brown not testified. Unfortunately, he had previous ties with the Assembly of First Nations and there was less public information available regarding his perspectives compared to Ms. Brown. John Paul was not selected given Membertou First Nation is an exceptional case for accountability and transparency. Since 2002, Membertou's governance practices have complied with the International Organization for Standardization (ISO), the first Indigenous government in the world to do so (National Centre for First Nations Governance 2013). While this is an incredible success story, it is not representative of the governance practices of the average First Nation in Canada.

While no perfect sampling methodology exists for qualitative research, there are some steps researchers can take to improve their approach. Gary King, Robert Keohane, and Sidney Verba discuss this in their book *Designing Social Inquiry: Scientific Inference in Qualitative Research*. They argue that the logic behind causal inference is the same between quantitative and qualitative research and; subsequently, they believe that "both quantitative and qualitative research can be systematic and scientific" (G. King, Keohane, and Verba 1994, 4-5).

However, to what extent should quantitative methods inform qualitative research, particularly in the context of Indigenous related research or community based-participatory research? Existing literature related to this project suggests convenience and snow-ball sampling are the most reasonable sampling approaches with Indigenous related research. Unfortunately, selection bias is inherent and a challenge to mitigate when using these sampling frames. Indeed, as King, Keohane, and Verba suggest, a researcher should always be self-aware and conscious of their sampling selection criteria. Specifics aside, their general argument is that cases should be selected to represent the most average scenario possible. However, the reality remains that those who conduct Indigenous related research are restricted to the few First Nation communities that are willing to participate, or the few public perspectives available, as was the eventual case with this project. Resentment and distrust towards western academic research remains strong among

First Nation communities— a legacy of colonialism. Given these realities this thesis is unable to make any generalizable claims over all Indigenous perspectives.

In terms of how committee meeting minutes were analyzed, each testimony was coded for evident themes. Common themes from each perspective were then analyzed to inform a general Indigenous reaction to the First Nation Financial Transparency Act. Preset themes followed the interview guide for INAC officials, which were broadly focused on the tension between government control and community self-determination, which was evident in all of the testimonies. However, document analysis for gray literature was more factual in nature. Most of INAC's documents were reviewed for factual information concerning the department's risk evaluation tools and processes , different funding models, and how different funding policies worked.

Ethics

An ethics review exemption request was submitted to the University's Behavioural Research Ethics Board. It was requested under the purview of Article 2.5 of the Tri-council's 2014 Policy Statement on Ethical Conduct for Research Involving Humans. Under Article 2.5, proposed research that consists of "Quality assurance and quality improvement studies, program evaluation activities, and performance reviews, or testing within normal educational requirements when used exclusively for assessment, management or improvement purposes, do not constitute research for the purposes of this policy, and do not fall within the scope of REB review" (Government of Canada Interagency Advisory Panel on Research Ethics 2014, 19).

The exemption was requested on the basis that the project was an evaluation of the level of government control in the development and implementation of INAC's financial accountability policies, and the collected data was be used to inform alternative policy approaches. Initially, the project called for interviews with First Nation band employees; however, public committee meeting transcripts concerning the FNFTA were analyzed since all First Nation communities that were approached declined involvement or did not respond to requests for participation. As a result, no immediate harm or risk was presented to First Nation communities or Indigenous organizations given all knowledge was publicly available. Similarly, policy evaluations of a similar nature had been conducted in the past by INAC as part of their routine policy evaluation process (Indigenous and Northern Affairs Canada 2011a; Indian and Northern Affairs Canada 2008).

CHAPTER 4 –INDIGENOUS ACCOUNTABILITY POLICIES, 2006-2016

Strong Indigenous reactions to the FNFTA demonstrate the Crown's accountability relationship with First Nation communities goes far beyond the legislation. In fact, it represents a deep-rooted and systemic power imbalance between First Nation communities and the Crown. Robert Shepherd's 2006 research on self-governance concluded that federal government control over First Nation communities had actually increased despite a greater devolution of program responsibilities to band governments. The cause for this increase was a complex mix of standardized performance-based evaluation measures and top-down administrative procedures that did not allow for much deviation. As a result, a "one size fits all" approach was taken with First Nation community accountability and transparency policies that is in conflict with the great diversity among Indigenous communities. Little has changed since 2006.

Four senior civil servants at the Department of Indigenous and Northern Affairs Canada (INAC) were interviewed to gauge changes in the federal government's accountability policies since 2006. Two were interviewed from INAC's head office in Gatineau, QC and two were interviewed from Saskatchewan's regional office in Regina, SK. The interviews were conducted in the spring and summer months of 2016. Each participant was given the same set of questions (see Addendum 1). The questions were categorized into three themes: reporting requirements, balance of federal government accountability and local autonomy, and participatory governance. The first two themes were used to measure how the federal government's policy and administrative control changed since 2006. The third theme was used to assess the extent to which communities use technology in fostering member participation in community governance.

Reporting Requirements

In 2002, 2006, and 2011, the Auditor General of Canada (AG) reported that INAC's program reporting requirements placed an excessive administrative burden on First Nation communities. The Auditor General also noted a trend which saw the use of more audit-based program evaluation over performance-based evaluation. In other words, program evaluation became less about measuring how well programs achieved their objectives, and ultimately how to improve program performance, and became more about ensuring centralized financial targets were met. The AG department has not subsequently looked at the matter in a systematic manner.

In response to the 2011 AG report, the federal government launched its Reducing the Administrative Burden on First Nations initiative in 2012. The initiative was a multi-faceted approach that involved three distinct priorities:

1. Consolidate and reduce program reporting requirements on First Nation communities;
2. Develop and implement an incentive based funding system that rewarded communities with strong financial records through more flexible funding arrangements; and
3. Re-focus the accountability relationship away from the government and back to community members (Indigenous and Northern Affairs Canada 2012).

Since the initiative launched, INAC claims the department “reduced the number of ad-hoc reports from 4800 to 800”, according to a 2012 Deputy Minister’s progress report. Likewise, a 2014 progress report claims the department also reduced the number of “data collection instruments” for non-financial reporting by 65% since the 2012/13 fiscal year (Indigenous and Northern Affairs Canada 2012). (Note: data collection instruments are, for all intents and purposes, simply program reports.)

According to the department, reducing the reporting burden included consolidating and streamlining the year-end reporting handbook with the recipient reporting guide into one document, which is now referred to as the reporting guide. Prior to the consolidation, the year-end reporting guide was used to fulfill reporting requirements under a community’s funding agreement. Similarly, the separate recipient reporting guide was used to fulfill the reporting requirements for individual programs the community delivered on behalf of the department (Indigenous and Northern Affairs Canada 2013a). Other approaches included more flexibility in the reporting timelines. One civil servant interviewed explained their perspective on the initiative’s first stage:

[G]etting rid of the unnecessary stuff... was the first step. The second thing we did was we consolidated reports and we did that kind of two ways. In some cases, certain programs required six reports or five, or whatever. We aggregated those. So that saved us a lot, you know, just if you think about the tombstone information—consolidating that saved steps (INAC 3, Personal Communication, July 13, 2016).

All four of the INAC senior civil servants interviewed agreed that the department’s initial administration reduction efforts resulted in a decrease to the overall number of program reports

required from First Nation communities. However, three of them disputed the department's claim that the overall administrative burden had been significantly reduced under the initiative. One civil-servant explained that few reductions were made beyond the initial consolidation and purge. They stated:

There has been some. That initial purge where we got rid of the stuff that was absolutely "What are we collecting this for?" ...excellent work I thought and really got us somewhere. The idea of amalgamating all the reports under one heading? There's a little bit of savings there [...] My point being really, I think on the surface it looks like a significant reduction because, you know, those 80 data elements that we're collecting on a monthly basis, we're now only collecting quarterly but we're still collecting 80 data elements and you still, as a band manager, you still need to track them (INAC 3, Personal Communication, July 13, 2016).

Another civil servant described the reaction they received from First Nation communities in response to the reduction initiative. They stated: "And we go to communities and say 'Yah, we reduced the number of reports'. The response we got back 'Yah, you took away the one-hundred 1-page reports that we had to do and gave us ten 100-page reports we have to do'" (INAC 4, Personal Communication, July 13, 2016). They argued that INAC's reduction initiative simply made the process more complex by "re-formatting and repackaging" how reporting requirements were delivered. However, the third civil servant was more blunt in their assessment, characterizing it as "just the moustache on the same old process" (INAC 1, Personal Communication, May 18, 2016).

While the actual reporting burden appears to have decreased very little under the initiative, one civil servant challenged a commonly held perception that a lot of data goes unused by departmental staff. In terms of education programming, for instance, they noted that a significant amount of information is required. In response to challenges from First Nation communities asking why they needed so much information, they stated: "If you're going to fund an education system, you need to know how many kids there are, what grade they're in, you know, if their teacher's certified as a teacher in the system, if the bus driver's got insurance, you know it's kind of normal stuff that any school division would need" (INAC 3, Personal Communication, July 13, 2016). They later stated: "and it's hard to reduce much more than that, unless we found a completely different mechanism that was based on... I don't know what" (INAC 3, Personal Communication, July 13, 2016).

INAC does not currently have a consolidated national database to store all submitted reports from First Nation communities despite some attempts. While some program specific

databases do exist, such as the Integrated Capital Management System (ICMS) for infrastructure, the Education Information System (EIS), and the Grants and Contributions Information Management System, they do not feed into a central database (Indigenous and Northern Affairs Canada 2013b). According to one civil servant, reports are still submitted as electronically populated PDF documents that are stored at INAC's regional offices on encrypted drives. They explained data security remains an issue behind the slow transition to full online reporting from all communities. They noted: "We're getting a few folks started but not nearly as many as we'd like, and a lot of that has to do with data security because we're dealing with some fairly sensitive information" (INAC 3, Personal Communication, July 13, 2016). Without a more streamlined reporting system, submitting program information remains cumbersome and time consuming for all communities.

Administrative and Policy Control

The second phase of the administrative burden reduction initiative saw the development and implementation of an incentivized funding model. Communities labeled as high-risk would be given less flexible funding arrangements compared to those deemed low-risk.⁷ A community's risk would be assessed through the newly developed General Assessment, a tool that looked at several factors related to a community's overall governance. As one civil servant explained:

The general assessment is an evaluation that is done in partnership with the First Nation on various lines—delivering of lands and economic development sources, delivering of education, government structure, all of the different pieces. Then at the end of it, there is a general assessment score that is intended to drive the level of intervention that the Government of Canada needs to have over a specific community's affairs (INAC 1, Personal Communication, May 18, 2016).

A community's general assessment score would then be used to determine the appropriate funding arrangement with the community. New funding authorities were created alongside the creation of the general assessment.

Little flexibility existed within community funding agreements before the new funding models and the GA were introduced under the reduction initiative. Developed in 2008 and

⁷ Increased flexibility could essentially mean more leeway in shifting funds between programs based on community needs or carrying funds over from one fiscal year to another.

implemented in 2011, the Treasury Board of Canada's new policy on transfer payments introduced three new "funding authorities" specifically for First Nation communities (Indigenous and Northern Affairs Canada 2011a) (Note: funding authorities can be thought of as the different mechanisms that Treasury Board uses to authorize financial transfers from government departments to external bodies. Each authority has different administrative procedures and restrictions attached to it). These additional authorities were developed as a way to reward fiscally responsible communities and incentivize improvement among others. The three new authorities— block, fixed, and flexible— do this by allowing greater financial flexibility at the First Nation community level with how funding can be spent under their agreements with INAC. (Indigenous and Northern Affairs Canada 2011b). The set funding approach already existed and was the primary mechanism used in previous funding agreements. With the addition of three new contribution authorities, Canada now has five different funding authorities available for funding agreements: grant, set, fixed, flexible and block (see Addendum 3 for a fully detailed description of each).

Under a grant authority, recipients are essentially given a set amount of funding that does not need to be accounted for except for reports on end results. Grant arrangements are rare in funding agreements with First Nation communities. To the best of the knowledge of one civil servant, there is only one such arrangement in Canada, which is with Miawpukek First Nation at Conne River in Newfoundland. Under a set funding authority— the standard historical approach— funding to communities is subject to strict accounting procedures and audits. Unspent money is sent back to the department at the end of each fiscal year.

The fixed authority gives communities the possibility of keeping any unspent funds as long as the department agrees with how it is used the following year. The flexible authority, while similar to the fixed arrangement, allows funding to be moved within the "cost categories" of a specific program during the life of the project or agreement. However, this authority allows for multi-year projects and agreements unlike the fixed approach. Unspent money must also be returned at the end of the project or agreement's term. The block funding authority is the most liberal authority after grants and allows for funds to be re-allocated across programs. Funds do not have to be returned as long as they are used within the objectives of the agreement or if the department approves another purpose. (Indigenous and Northern Affairs Canada 2011b).

All four civil-servants agreed that the new funding authorities increased the level of First Nations administrative and policy control over their programming and service delivery. They also all agreed that the government's policy approach with First Nation communities has become increasingly performance evaluation-based. However, there are exceptions to both changes. One civil servant believed that a newly instituted investigative unit within INAC was a bureaucratic approach as it layered in various forensic audits for communities that were subject to investigation. They stated:

Is somebody managing correctly? Well that's a management audit and we'd have to say that. So we kind of layered that on and there's forensic audits and they'll do scoping exercises and all that seems to me a little bit bureaucratic, and us taking on an investigative role that I'm not sure is really our mandate (INAC 3, Personal Communication, July 13, 2016).

Another civil servant acknowledged that, despite government initiatives to develop more horizontal performance based measures, the accountability relationship is still top-down from the Minister to communities. They stated: "When you look at it, all our accountabilities haven't changed. So when performance evaluation time comes or you got to get reports done, it's straight up and down" (INAC 4, Personal Communication, July 13, 2016). As a result, it appears communities remain subject to elements of both Traditional Public Administration and New Public Management.

Lastly, one civil-servant, who was directly involved in developing the General Assessment, explained that its implementation does not reflect the original intention. They explained that the reporting requirements for low-risk communities and high-risk communities have largely remained the same:

In my mind when we put the General Assessment in place, the vision was the lower the risk, the lower the number of reports...and that never happened. The low-risk community has the exact same reporting as a high-risk community. If anybody tells you any different, they're not... they don't know how the system works (INAC 3, Personal Communication, July 13, 2016).

They explained that INAC insists on using the "set" funding authority in many programs, the most inflexible of the new funding authorities associated with the General Assessment. They stated: "If national programs are going to insist on using the set funding authority for every community, irrespective of their risk, we're never going to get there" (INAC 3, Personal

Communication, July 13, 2016). In spite of internal discussion within INAC to re-visit the GA, they had not seen or heard of any planned action at the time of the interview in July 2016.

New Public Management remains a flawed approach to nation-to- nation relationship building, despite positive changes associated with the new funding authorities. INAC still retains ultimate control over how the authorities are implemented. As explained by one civil servant, the General Assessment was not implemented as intended. This same civil servant believed that another system would be needed to move beyond burdensome reporting measures. The top-down command and control management structure which Shepherd observed in 2006 remains in place ten years later. Moving towards an authentic nation- to- nation relationship or even towards better government-First Nations relations, requires a significant re-configuration of the current administrative framework. Otherwise, it appears that small changes will not shift existing subordinate power relations in any meaningful way.

FNFTA and First Nation Community Consultation

The First Nations Financial Transparency Act was the result of the administrative burden reduction initiative's third priority. The purpose of which was to shift the accountability relationship away from the Crown to First Nation community members. Some civil servants described this as "re-defining the accountability bargain". The FNFTA's requirement to post all consolidated audits online was seen as a step in this direction. All of the civil servants interviewed explained that the FNFTA was based on the content of existing funding agreements with the exception that audits be posted online and that punitive measures were now enforceable under law.

Some communities disagreed with the lack of consultation behind the FNFTA. As a result, they refused to comply in posting their audits on their website as stipulated under the Act. Despite this, they were still required to privately submit their audits to INAC under their funding agreements. If the audits were not submitted, they were subject to INAC's Default Prevention Management Process even if their audits demonstrated good financial management. One civil servant described the problems this caused with communities that they knew were good fiscal managers. They explained it was a difficult position to be in as they had an established positive relationship with most of the communities they worked with. They explained that if a community submitted their audit as required under their funding agreement, they had no choice but to post it on the INAC website:

So First Nations were kind of caught here. If they were objecting to the First Nations Financial Transparency Act, they couldn't give us their audited financial statement and say "Here, this satisfies the requirements of the funding agreement but don't put it on the website". Well they could say that to us but I'm bound by the law and the law says I have to put it on the website. You know, it's communities we worked with forever, so they're not lying to us or anything like that (INAC 3, Personal Communication, July 13, 2016).

All of the civil servants agreed that the FNFTA fed into top-down ministerial accountability with First Nation communities. They also all explained it was a legislative measure which they had to implement. One was even reticent, before further probing, about discussing the legislation and simply stated: "It was mandated by the previous government to do it, so we did it" (INAC 1, Personal Communication, May 18, 2016). In spite of this, three of them stressed that they privately received several positive responses to the legislation from First Nation leaders and community members whom they worked with. One of them explained that over their career with INAC they have gotten to personally know several individuals from the communities in their region. Many of them supported the principle of the legislation. They stated: "I know a lot of people in the communities and an awful lot of the folks that I count as friends and acquaintances and business relationships over the last 30 years, they basically said this is a good thing" (INAC 3, Personal Communication, July 13, 2016). Another civil servant shared a similar account, "I actually don't have a major problem with it myself personally. As a citizen, as a public servant, or as a band member because I expect that, you know, any government that exists should provide this. Now if I were to look at it through the lens of the community or community government, well this is somebody else imposing something on us" (INAC 4, Personal Communication, July 13, 2016). Despite their personal support for the FNFTA, three acknowledged that the legislation's approach paints an unfair picture that all First Nation communities are the same. They explained, "I think that maybe for those communities that would do it anyway, is they don't need it but it's been applied universally which is sort of the unfortunate part because it really doesn't recognize that those are there" (INAC 4, Personal Communication, July 13, 2016).

Sovereignty and government control came up in conversation regarding the legislation. They believe the negative First Nation reaction exposed a sharp division among community perspectives. They explained that there are communities who inherently believe they are part of Canada and are subject to its constitution and laws, and those who believe they are distinctly

separate sovereign nations. They stated, “To me, that commentary, a lot of it was about those communities that are saying, you know, basically ‘I don’t answer to the federal government. I as a leader in my community only answer to my band members and your laws don’t apply’” (INAC 3, Personal Communication, July 13, 2016).

The question of leadership and accountability also came up in an interview with one particular civil servant. They believe that strong leadership more than anything else, including INAC’s supports, tools and policies, was how a community was going to make progress in their financial management. In their experience with INAC and as a band member, they believe that it takes a combination of strong leadership and First Nation members placing demands on their leadership for real change. After explaining a success story of a community they worked with, they stated: “There was some critical mass of something that happened in the community that changed and it wasn’t the funding agreement and it wasn’t how things were funded, it was whoever the leadership of the community showing up one day saying ‘we’re going to do things differently’” (INAC 4, Personal Communication, July 13, 2016).

The FNFTA’s consultation process was unanimously agreed upon by the four civil servants to be deeply inadequate. One of them described the process as non-existent and another stated there was very little. A third went even further explaining that INAC’s approach to consultation is generally inconsistent. Some consultation processes went well while others were deeply problematic, and they knew it. They stated:

First Nations Education Act? Flawed consultation process. First Nations Financial Transparency Act in my opinion? Flawed consultation process. Other acts that the previous government passed—the First Nations Election, they got that one right. It wasn’t like we didn’t know how; we just didn’t do it right. For whatever reason, and I really don’t blame the government for that I think this falls on us—we’re the sponsoring department, we didn’t get that right. We just didn’t get that right. (INAC 3, Personal Communication, July 13, 2016).

They later explained that they could understand the problems with the First Nation Education Act given the internal dissent within the Assembly of First Nations. However, they were adamant that with the First Nations Financial Transparency Act “we really just did seem to kind of say ‘No. This is what we’re doing’” (INAC 3, Personal Communication, July 13, 2016).

A lack of consultation was a significant barrier to the FNFTA’s success. One civil servant explained this through past work on Bill C-27 in another INAC region. They described that the region’s quality of program reporting was not up to national standards and seriously lagged

behind that of other provinces. Knowing that the FNFTA was on the horizon, and a First Nation member themselves, they knew First Nation communities were in for a big shock, which would only foster greater animosity toward the Crown. As a result, they worked diligently with communities and even visited them in-person explaining what to expect from Ottawa and how to prepare for it. They even facilitated and arranged for an in-person meeting with senior officials from Ottawa. However, their first step was an unpopular one. They started enforcing the strict reporting requirements by rejecting many of the reports they received from communities. Naturally, this made them particularly unpopular with First Nation community leaders in the region. They described one distinct meeting with a local First Nation organization that was fielding several complaints from communities regarding their rejected reports:

“So anyways he says ‘We got to meet’. I said ‘OK’. So we met and he didn’t even say hi, he says ‘Nobody here’s even met you and they all hate you. I said ‘OK, but a year from now FNFTA is going to come in and it’s not going to be just me looking at it, the whole world’s going to be able to see this stuff and if we don’t have the same stuff posted on the website that they have in Saskatchewan, Alberta, or BC, the whole world’s going to know and somebody’s going to ask the question ‘Why is it that you’re implementing things differently here than elsewhere?’ (INAC 4, Personal Communication, July 13, 2016).

By taking the time to prepare the region’s communities, they were one of the first region’s to be fully compliant with the FNFTA, and they were more comfortable with the reasons behind its development and implementation. In fact, some had even participated in a pilot project where they voluntarily agreed to post their finances on their community’s website. By taking the time and working with communities to prepare for the FNFTA—de facto consultation, there was far less resistance to it in the end.

The lack of consultation with First Nation communities on the FNFTA reinforces a top-down traditional style of public administration. The INAC officials interviewed for this thesis readily admit that the legislation’s consultation process was inadequate. In this light, public commentary from First Nation communities and Indigenous organizations asserting that the legislation was hastily imposed on them is understandable. Beyond this, however, the long-term success and acceptance of future policies that affect First Nation communities and Indigenous organizations will undoubtedly require their early participation in the policy development process.

Participatory Governance

The final research element of this thesis was to preliminarily explore the extent of digital participation in First Nation community governance. Unfortunately, the perspectives of INAC officials were exclusively used since no First Nation communities were successfully interviewed for this project. INAC officials were asked about the extent to which digital technologies were used in soliciting First Nation community participation in federal policy development and its future growth. Three of the four officials were able to confidently speak on the subject.

All of the officials who spoke about participatory governance agreed that the extent to which it is used in INAC's policy development is quite minimal. While some program specific applications and portals are used, such as the Education Information System, there are very little in terms of virtual participation. One official noted, however, that they expect this to change in the future. They explained: "In terms of the ways between the community and us, absolutely. I think the more sophisticated we get and the more sophisticated First Nations get, you know, submitting a report should be a push of a button. It's the information they want" (INAC 1, Personal Communication, May 18, 2016).

A similar observation was made regarding the use of virtual participatory technologies within First Nation communities. One official noted:

It's out there but it's not very prevalent. We hear of communities setting up their own website, not everyone, but a lot of them. I don't know if it's really gone to the next step of participatory governance, or in the inputting of request for budgets and that sort of stuff. I don't think it's gone that far. I think communities themselves are doing the best they can with information sharing (INAC 1, Personal Communication, May 18, 2016).

Despite this, the official did explain that there is a requirement to get information out to off-reserve members under the Indian Act, which INAC often facilitates for communities; many communities have also requested of INAC that they maintain this arrangement. They explained this using the example of designating reserve land for economic development and how INAC sends out information packages to off-reserve members. They stated that "9 times out of 10 we do the mail-outs". In this respect, they believe there is role for future growth in soliciting the perspectives of off-reserve members, which the communities can then lead with fewer administrative resources required.

A regional official agreed with their national colleague but went even further. They explained there are some growing challenges regarding community funding and the increasing ratio of urban off-reserve community members relative to on-reserve members. In their

experience as a band member, they have witnessed an increasing community detachment among younger generations. As greater numbers of youth move off-reserve to urban areas, they are no longer engaged in the community's affairs. This is also problematic from the perspective of protected benefits by way of treaty and the constitution (financial and otherwise). They explained that only some of INAC's funding to communities can be used for off-reserve members. They stated, "It kind of depends on which program you're talking about. So employment programs? Yes. Post-secondary? Maybe. Anything else you can't really use Indian Affairs money to help them because it's tied to the boundaries of that reserve" (INAC 4, Personal Communication, July 13, 2016).

The increasing disconnect between off-reserve and on-reserve community members raises questions with how First Nation governments remain accountable to off-reserve members. After some informal discussion, the same public servant speculated that digital technologies might be an option to increase urban off-reserve member participation in community governance, but further follow-up would be needed to flesh out this idea. Coincidentally, at the time of the interview, a protest was occurring outside of the regional office that consisted of off-reserve urban community members who believed that First Nation community leaders were unaccountable and overlooked the needs of urban off-reserve members. The public servant noted:

So what I think is that you'd end up finding more people in urban areas that are...out here if you were to sit and talk to these people [points to the protestors outside], are very, very disaffected by First Nations and how they're funded and how they operate. This group out front believes that it's a creation of the Indian Act therefore they're not really legitimate governments—they're superimposed governments that serve to suit the needs of themselves as opposed to the needs of treaty Indian people in Saskatchewan. So the amount of distrust and the amount of accountability angst is greater amongst urban Aboriginal people than it is amongst people on reserve. Although that may or may not be true in all cases (INAC 4, Personal Communication, July 13, 2016).

One civil servant explained that communities want to provide benefits to their urban members but it is a double-edged sword. On one hand, they are bound by their funding agreement and the Indian Act in terms of who is eligible for funding. On the other, they want the money to stay within the community; why send money to those living off-reserve when there are those in need on-reserve who plan on staying in the community? In any given scenario, First Nation community challenges associated with a growing urban Indigenous population will only

be exacerbated in the coming years. Each community knows their needs best and managing this growing challenge will require meaningful engagement and consultation of their perspectives.

Analysis

Many trends can be observed from the evidence provided by the four INAC public servants interviewed. However, this project advances three in particular with how the government's approach to Indigenous accountability policies has changed over the last 10 years. 1. INAC's reporting burden on First Nation communities has only marginally decreased; 2. Current administrative frameworks maintain and even strengthen Crown control over First Nation communities. 3. Extensive and meaningful consultation is an imperative interim measure on the path increased Indigenous self-determination.

The overall administrative burden on First Nation communities has not been significantly reduced. All of the INAC officials interviewed agreed that there were some initial savings, however three of the four were adamant that communities still had to submit the same level of information. One senior official from the department's head office affirmed this point. They explained that the reporting requirements and performance measures under the grants and contributions approach is inconsistent with the type of relationship Canada and First Nations need to get to if there is to be a true nation-nation relationship. He stated: "The reality of it with First Nations being another level of government, in the context of federal-provincial relations where we do statutory payments and fiscal transfers, we're still stuck in grants and contributions... and very few in terms of grants" (INAC 1, Personal Communication, May 18, 2016).

By design, New Public Management's focus on the private sector ideal of value for money means that promoting increased self-determination in First Nation communities takes a back seat to the Crown's fiscal priorities. As found by the Auditor General in 2011, program evaluation has shifted away from assessing program effectiveness to an increasingly financial audit based approach. Harry Swain and Ian Clark touched on this point in their book, *A Subtle Balance: Expertise, Evidence, and Democracy in Public Policy and Governance, 1970-2010* (Clark and Swain 2015). Using Jean Chretien's emergency program review as an example, they found that audit focused evaluation can have detrimental impacts on government programs, particularly in the long-run. For instance, they determined an audit based approach under Chretien's program led to a 2% annual increase funding cap on First Nation education that

remains in place today. This cap, they argue, constrains the delivery of quality education on First Nation reserves.

Clark and Swain believe that standardized evaluation measures do not reflect the different human realities of each department or the political context under which government operates. The latter point is particularly relevant to Justin Trudeau's present Liberal government. Trudeau made significant promises to Canada's Indigenous peoples during the 2015 election campaign, which he reaffirmed when he assumed office. His biggest promise was to realign Canada's relationship with Indigenous peoples to a nation to nation level. Unfortunately, the public service's current performance based administrative framework is simply incapable of meeting this mandate. Ministerial accountability is a fundamental pillar of our current democratic system where the accountability relationship with First Nation communities is managed vertically from the Minister down through INAC to the community level. Furthermore, program reporting measures remain burdensome despite the Reducing the Administrative Burden Initiative.

The impact of meaningful consultation and engagement can be powerful, as evidenced by INAC officials with their successful consultation on certain pieces of legislation. Meaningful consultation gives power to Indigenous voices and is a tangible step forward in enabling Indigenous self-determination.

CHAPTER 5 - INDIGENOUS REACTIONS

The federal government's Indigenous accountability policies have changed since 2006. Of the changes, Bill C-27 received the most attention from First Nations communities and organizations. However, reactions were not solely directed at the legislation. Instead, the FNFTA should be viewed as a flashpoint for longstanding Indigenous tensions with the Crown. Deconstructing public commentary for and against the legislation reveals the discussion was less about how to strengthen accountability and more about who has the authority to implement and govern (H. King 2014; Wilson-Raybould 2013; MacKay 2016; Jones 2015; Alcantara 2012).

Indigenous perspectives and reactions to the FNFTA range considerably. There are those who fully support the legislation, those who support it in-principle but desire amendments, and those that oppose it outright. A variety of Indigenous perspectives were on the public record regarding the FNFTA. Multiple witnesses were called to speak during government review of Bill C-27 at two committees: the House of Commons Standing Committee on Aboriginal Affairs and Northern Development and the Standing Senate Committee on Aboriginal Peoples. Three

Indigenous perspectives from these committees were reviewed: Chief Darcy Bear of Dakota Whitecap First Nation as community leader, Jody Wilson-Raybould as a representative of an Indigenous organization, and Beverly Brown as a member of Squamish First Nation in British Columbia.

Chief Darcy Bear, Whitecap Dakota First Nation, Saskatchewan

Chief Bear appeared before the House of Commons Standing Committee on Aboriginal Affairs and Northern Development on October 17, 2012. His opening statement to the committee was a story of the community's evolution from near bankruptcy in the early 1990's to financial prosperity (Standing Committee on Aboriginal Affairs and Northern Development 2012). He described several factors that contributed to the community's financial turnaround: a commitment to community accountability and transparency, capacity building, self-determination, and leadership. His community's story is one of resilience and success that has earned them the reputation among government officials as being a model First Nation community.

Financial accountability and transparency to community members was a fundamental pillar of Whitecap's financial rebound according to the Chief's testimony. He stated:

It's important for any organization. It's not just First Nations communities. Whether you're a municipal, provincial, or federal government, or a non-profit or for-profit organization, accountability and transparency are very important, and having a strong financial track record is important (Standing Committee on Aboriginal Affairs and Northern Development 2012, 14).

Chief Bear's insistence on financial accountability and transparency is understandable. His community's economic growth and financial state rapidly improved as a result of his leadership, commitment to accountability, and financial reforms. In fact, according to Chief Bear's address to the committee, the community's employment rate dropped from 70% to 4.1% during his time in office. The community operates a golf-course and casino and plans to open a hotel, which was originally slated to open in 2014.

It should be noted that in 2013 the band's financial manager was caught embezzling over \$2 million in band funds which delayed the hotel's construction. Auditing firms that worked with the First Nation claim that some internal financial controls were not followed that contributed to the prolonged fraud. However, do these claims mean Whitecap Dakota First Nation is unaccountable? Not necessarily. Accountability is about being answerable and responsible for

one's actions, not about preventing criminal behavior. Even the strongest accountability measures do not stop crime, and non-indigenous governments are not immune to this. Consider the sponsorship scandal that rocked the Liberal Party which enabled the rise of Stephen Harper's Conservatives in 2006. Consider how the former Mayor of Laval, Gilles Vaillancourt, was recently found guilty of defrauding Laval, a suburb of Montreal, of over \$8 million (Perreux 2016). Consider how members of the Conservative Party of Canada were charged (later dropped in exchange for a fine) for circumventing election finance rules during the 2006 general election⁸. Of course, there are more examples of unaccountable and nontransparent behavior on the part of Canadian and First Nation officials. However, the point being that accountability entails increased vigilance and does not entail stopping criminal behavior from occurring. In Whitecap Dakota First Nation's case, the financial manager was immediately terminated, criminally charged, and subject to legal action by the First Nation to recover the stolen funds. Chief Darcy Bear was transparent with his community about the fraud and took action to improve the community's accountability measures by developing and implementing a new anti-fraud policy (Standing Committee on Aboriginal Affairs and Northern Development 2012; Whitecap Dakota First Nation 2016; CBC News 2014; Whitecap Dakota First Nation 2014).

Despite some initial reservations and changes to Bill C-27, Chief Bear supports the FNFTA. During the committee meeting he openly expressed his support for Bill C-27 in principle, stating: "We certainly do support the bill. Originally, when it was rolled out by Kelly [Kelly Block, MP for the former riding of Saskatoon-Rosetown-Biggar now Carleton Trail-Eagle Creek], it was Bill C-575. We have no issues as far as being accountable to our members. We do share our audit with our members annually." (Standing Committee on Aboriginal Affairs and Northern Development 2012, 10). At the time of speaking, however, Chief Bear shared some of his reservations concerning the level of detail required in the consolidated financial statements. He believed Bill C-27's approach to consolidating financial data held First Nation leaders to a different set of accounting standards compared to other government entities. He stated:

If you're staying in a hotel, or if you're flying, or you have other transportation costs, they shouldn't be considered as part of your salary. Certainly, it's not for any of you. You

⁸ This was more commonly known as the 'in-and-out' scheme which involved shifting funds from the national campaign, which had reached its spending limit, to ridings that hadn't reached their limits. Riding offices were then instructed to return the funds to the national campaign after claiming it as a campaign advertising expense that qualified for a partial refund by elections Canada.

don't have to experience that, so why would you impose that on First Nation leaders? That certainly has to be corrected (Standing Committee on Aboriginal Affairs and Northern Development 2012, 11).

Dakota Whitecap First Nation's primary accountability relationship is with its community members. Chief Bear informed the Standing Committee of this in response to a question by MP Carol Hughes. Hughes asked about the FNFTA's contentious requirement that consolidated financial audits be publicly posted on INAC's website⁹. Chief Bear stated:

As for how each community gets that information to their members, it should be up to them. If it is going to be via the net, then there should be a pass code that they have to use, because it's information that is privileged to them as a Whitecap member. That would be my answer, anyway, with regard to the internet. It shouldn't be available to everyone. I don't think it's everybody's business what we're doing (Standing Committee on Aboriginal Affairs and Northern Development 2012, 16).

Chief Bear later explained that he is not opposed to sharing financial information with the government and external stakeholders that provide resources to the community. Rather, he must respect his primary accountability relationship with community members by giving them information first. He stated, "We can share that audit with the government, not a problem, but it should be shared with the Whitecap members; another First Nation, I don't think it's any of their business" (Standing Committee on Aboriginal Affairs and Northern Development 2012, 16). However, despite this position, he conceded that he did not have a major issue with this new requirement. Under further questioning he stated: "I don't see the big issue here. I think if we're open and transparent, why would we oppose something that's just saying that it's transparency and providing that to our members? Providing the changes we put forward are made, I don't see the issue. It's just about being transparent to our people" (Standing Committee on Aboriginal Affairs and Northern Development 2012, 16).

Developing internal expert capacity was another element that contributed to Dakota Whitecap's financial turnaround. Chief Bear explained to the committee that he often sees communities struggling to make decisions and the need for more internal expert capacity. He stated:

It's no different from your table, where you need to have good financial information to make good decisions as leaders. That's the same thing that first nations people should

⁹ This requirement was new and was not previously required in the government's funding agreements with First Nation communities, which the FNFTA's content and language largely mirrored.

have as well—the professional capacity to make those good decision for the people (Standing Committee on Aboriginal Affairs and Northern Development 2012, 13).

Chief Bear used his community as an example. Shortly after being elected Chief in 1991, the community hired a professional accountant to help straighten the community's finances and incrementally develop internal capacity. He recounted the story to the committee:

A lot of communities are funded [federal government funding] and we have financial clerks. But a financial clerk cannot keep pace with the onerous reporting requirements of the federal government. So I convinced the federal government to do something different: let's hire a professional accountant for Whitecap; in year one you pay 100%; in year two, you pay 75% we pay 25%; in year three, we go 50-50, in year four, we'll pay 75% you pay 25%; and in year five we're going to take over the position. They approved that and the rest is history (Standing Committee on Aboriginal Affairs and Northern Development 2012, 13).

Chief Bear recognized the need for external financial help early and his negotiation with the federal government allowed the community to retain authority to choose their own external financial expertise. In doing so, the community narrowly avoided third-party management.¹⁰

Chief Bear explained:

Third-party managers don't want to work themselves out of a job. They don't want to see the First Nations build any capacity. Therefore, the model that we created back then worked for us (Standing Committee on Aboriginal Affairs and Northern Development 2012, 10).

Elements of self- determination are discernible in Chief Bear's story about his negotiation. In retaining the authority to hire an external accountant, he prioritized the community's internal accountability relationship over its relationship with the government, and others.

Strong community leadership also contributed to Dakota Whitecap's financial turnaround. When Chief Bear was first elected as Chief in the early 90's, he was 23 years old. Facing the daunting prospect of bankruptcy and third-party management, he knew things had to be done differently. He explains:

That very first day I was elected there were two choices. The first choice: 'Who needs this? I may as well walk away and forget about it.' But as leaders, as you all know, as you

¹⁰ Third Party Management is a last resort used by INAC in communities with high default risk. The department appoints a third party financial manager to manage a First Nation community's finances for a defined period of time or until the root causes of financial mismanagement are addressed. It is viewed by many First Nation communities as an overly aggressive, intrusive and hard handed approach.

are elected, when there are challenges, we have to accept those challenges, find solutions and go forward (Standing Committee on Aboriginal Affairs and Northern Development 2012, 9).

Chief Bear believes a community is bound to suffer without strong leadership and a determination to improve a community's financial well-being. He stated:

We've seen time and again that because of a leadership change, the community has actually crashed. You can have a First Nation with good leadership, moving things forward, and all it takes—it's easy to spend money, anybody can spend money—and bang, it goes down. Then what happens? (Standing Committee on Aboriginal Affairs and Northern Development 2012, 12)

Despite his initial reservations with Bill C-27, Chief Bear strongly favors it. He describes how the Bill's forced transparency mechanisms are important in cases where leadership changes lead to less financial transparency and accountability in First Nation communities. He stated:

We don't have any kind of mechanism in our community legislation currently, and if a new leadership came in and decided they didn't want to share that financial information, there is no obligation for them to do so. I think it's important going forward that all Whitecap members know what's happening in our community from a financial perspective: where we are, if we are financially healthy, and what kind of shape we are in. I think it's important that there is a mechanism to catch that for our members. As leaders, we have to share that. Unfortunately, as I said, when I was first elected, there was no such bill in place (Standing Committee on Aboriginal Affairs and Northern Development 2012, 13).

It is important to point out two things concerning Chief Bear's support for Bill C-27. First, his support for the bill does not preclude his desire for increased community capacity, which is discernible in his story concerning his negotiation with the federal government on hiring an external accountant. Second, his perspectives were cited by the government as consultation with Indigenous communities despite objections that little consultation occurred. This is significant as it seems that Chief Bear's feedback was afforded greater weight in Bill C-27's development compared to other Indigenous leaders. This is evidenced during Hon. John Duncan's testimony to the Senate Standing Committee on Aboriginal Peoples during deliberation of Bill C-27. Mr. Duncan was the Minister of Aboriginal Affairs and Northern Development Canada at the time. He described how Chief Bear's feedback was considered in the bill's development. However, he does not reference how opposing perspectives were considered, if at all. This suggests, to some extent, that opposing perspectives may not have been considered

in the Bill's creation. However further research would need to explore and confirm this speculation. This potential exclusion of opposing perspectives is evident in the Minister's response to questions from Senator Nick Sibbeston concerning consultation for the bill. The following is an excerpt of their exchange:

Senator Sibbeston: My line of questions will deal with consultation...I understand you said that the consultation went even before Bill C-575 [precursor to Bill C-27], but I gather there has been no consultation on this bill. Am I correct on this matter, minister, that there really has been very little consultation on Bill C-27?

Mr. Duncan: I would not put it that way. When we introduced the bill in November of 2011, I did write to all chiefs and councils enclosing a copy of the bill. In my covering letter I invited First Nations leadership to learn more about the bill and to contact the Standing Committee on Aboriginal Affairs and Northern Development if they wished to participate in the parliamentary process with the bill. We certainly did receive feedback. Yes, Chief Bear was in committee, and yes, Chief Bear gave us comprehensive thoughts. There were other chiefs who knew he was doing that and did not participate because he was their proxy. That is just an efficient way to do things. I would say there was a fair degree of consultation and there was a lot of public discussion at that time as well (Standing Senate Committee on Aboriginal Peoples 2013, 16).

Despite the Minister's assertion that there was a fair degree of consultation on the bill, he had stated earlier in the committee meeting that no direct consultation occurred with First Nation community members. He admitted this in response to a pointed question from Senator Lillian Dyck of Saskatchewan. The following is an excerpt of their exchange:

Senator Dyck: I believe that Senator Lovelace Nicholas was asking if any band members had input to the bill. You had Chief Darcy Bear, but did band members actually have input into the design of the bill?

Mr. Duncan: No. We did not have band members' input into the design of the bill, but some band members have applauded the bill (Standing Senate Committee on Aboriginal Peoples 2013, 14).

The point of highlighting these exchanges with the Minister is that Chief Bear's perspectives were considered and responded to in Bill C-27's development. It raises questions as to what effect consultation with other communities, including those who opposed the bill, might have had on its overall reception among Indigenous organizations and First Nation communities. As some INAC officials noted during interviews for this project, proposed government legislation

that was subject to a comprehensive consultation process with First Nation communities and Indigenous organizations was often well received in the end.

Jody Wilson-Raybould, Assembly of First Nations Regional Chief, British Columbia

Jody Wilson-Raybould was another witness to speak on Bill C-27. She appeared before the House of Commons Standing Committee on Aboriginal Affairs and Northern Development on October 17, 2012 and the Standing Senate Committee on Aboriginal Peoples on March 5, 2013. In both instances, she represented the Assembly of First Nations (AFN) as their lead on First Nations governance. At the time, she was also an AFN Regional Chief for British Columbia. A lawyer by training, Wilson-Raybould is now Canada's first Indigenous Federal Minister of Justice in Prime Minister Justin Trudeau's Liberal government. In both addresses, Wilson-Raybould shared AFN's perspective on the previous Conservative government's approach to First Nation accountability and transparency. Her committee statements had three discernible themes: commitment to community accountability and transparency, self-determination, Crown paternalism, capacity building, partnership, and consultation.

Canada's Indigenous peoples expect accountability and transparency from their political leaders no differently than non-Indigenous Canadians do of theirs. Wilson-Raybould believes Bill-C27 presented an unfair picture that all First Nation communities are poor fiscal managers in need of government intervention (Standing Committee on Aboriginal Affairs and Northern Development 2012, 1). In reality, as Wilson-Raybould explained, the vast majority of First Nation communities demonstrate and are committed to strong accountability and transparency to their members (Standing Committee on Aboriginal Affairs and Northern Development 2012, 1). She stated:

Most of the accountability measures in the bill are similar to those found in any First Nations constitution or its laws. In fact, First Nations are already required to report on matters covered in the bill, through contribution agreements with the federal government. Whether an Indian Act band or not, our nations follow the handbook respecting public sector accounting, as prepared by the Canadian Institute of Chartered Accountants (Standing Committee on Aboriginal Affairs and Northern Development 2012, 2).

In December 2010, the AFN passed a resolution on First Nations Accountability and Transparency in response to Bill C-27's predecessor—private member Bill C-575. The resolution affirmed First Nation communities' ability and authority to design their own accountability and transparency mechanisms (See Addendum 2) (Assembly of First Nations

2010; Standing Committee on Aboriginal Affairs and Northern Development 2012). It also affirmed that First Nation community leaders are accountable to their members first and the Crown second (Assembly of First Nations 2010). However, the government continued with Bill C-27 in spite of the resolution and the demonstrated good governance of many First Nations communities across Canada. According to Wilson-Rayboud, this fostered resentment among many of AFN's Chiefs. She stated:

It is not surprising that many of our chiefs have resented this approach and are turning the lens back on Canada, suggesting that it is Canada that needs to develop more stringent accountability frameworks for their governing bodies, that it is Canada that needs to be held more accountable for the treatment of First Nations (Standing Committee on Aboriginal Affairs and Northern Development 2012, 1).

Wilson-Rayboud criticized Bill C-27 for disregarding Indigenous self-determination and for its overall paternalistic approach to accountability. This is particularly evident when she speaks about the Bill's requirement that First Nation communities post their consolidated financial audits online for public access. Those in favour of the act believe this requirement affords an immediate and direct line of financial transparency between community leaders and their members. However, Wilson-Rayboud argued this approach was short-sighted and actually inhibited First Nation community accountability and transparency in the long run. As long as the government dictates the process, there is no incentive or ownership—and ultimately legitimacy—over improving accountability and transparency in communities. She stated that anything “imposed upon our First Nations that is not legitimized by our citizens is ultimately destined to fail” (Standing Committee on Aboriginal Affairs and Northern Development 2012, 4).

Wilson-Rayboud used her community's Financial Administration Law as an example of how communities can develop their own robust accountability mechanisms. The law was developed under the authority of the federal government's First Nations Fiscal Management Act. She explained that their “law is directed and ratified by our nations, it is far more comprehensive than Bill C-27, and, more to the point, it is legitimate in the eyes of our people” (Standing Committee on Aboriginal Affairs and Northern Development 2012, 2). She goes even further, arguing that Bill C-27 oversimplifies and conflates accountability with transparency. The bill, she argued, did little to tangibly improve accountability procedures in spite of increased financial transparency between leaders and their members. She noted, “It seeks to disclose financial

statements in terms of what a First nation is doing on that end. In terms of supporting First Nations and building capacity and building institutions of good government, this bill does not address that, in my opinion” (Standing Committee on Aboriginal Affairs and Northern Development 2012, 7).

Providing resources that enable expert capacity development in communities is a practical step to improving accountability and transparency while respecting self-determination, explained Wilson-Raybould. Communities need support from the government to re-build the knowledge and capacity that was lost under 150 years of colonial rule (Senate of Canada, 2013 p.10). She argued that it was unfair to expect so much of communities that had only had a few years to replace what the Crown has had 150 years to establish. As a result, Wilson-Raybould believes partnership and collaboration with First Nation communities is a more effective approach to improving accountability and transparency over top-down approaches. In response to a question from Conservative MP Kelly Block, the member responsible for Bill C-575 (Bill C-27’s predecessor), Wilson-Raybould stated:

I think about the question another way: how can the Minister of Indian Affairs and the parliamentarians around this table support our evolving governments—not tell us how our government should change, or what rules or laws we should put in place, but how we can support the conversation within our communities, support our citizens in seeking and accessing the information that we require, and empower our citizens to direct the change that is sought within their communities, based upon our priorities? (Standing Committee on Aboriginal Affairs and Northern Development 2012, 7).

The Conservative government’s approach was the opposite, according to Raybould. In fact, access to external governance resources was constrained during the previous government’s tenure. They reduced funding to several Indigenous organizations that focused on good governance. She explained:

One of those institutions was the National Centre for First Nations Governance, which was significantly cut back and is having to consider closing its doors, while the intention behind the governance centre was to create that support—or create the centre of excellence, if you want to call it that—that would support first nations government’s during this transition period. So there’s another challenge (Standing Committee on Aboriginal Affairs and Northern Development 2012, 17).

In addition to the cutbacks, Wilson Raybould decried the lack of consultation with First Nation communities and the AFN on Bill C-27. Nevertheless, her testimony remained positively focused on developing future opportunities for collaborative policy development with First Nation

communities as opposed to lambasting the government. In response to a question from the Standing Senate Committee regarding the lack of consultation on Bill C-27, she stated:

There is a huge opportunity, as I also said, for us to look at joint policy development or look at having some consideration from the outset with respect to these issues. If that were the case, there would have been regard for what First Nations are actually doing to create, develop and implement concrete, comprehensive financial accountability mechanisms and systems within their communities...(Senate of Canada 2013, 19).

Canada's diverse Indigenous population ensures that there are diverse perspectives on federal accountability frameworks. Each community brings different experiences, different values, and different circumstances. In reference to a governance toolkit she helped develop for B.C First Nation communities, Wilson Raybould illustrates the benefit of multiple perspectives. She stated:

What it does and why it has been so successful is it tells the story of what our nations are doing. It tells it from their perspective [...] In terms of financial administration, there are limited provisions available to create bylaws under the Indian Act. It provides the options for first nations to choose to celebrate the successes of others and adopt them into their own communities, or to create alternatives or options for other people (Standing Committee on Aboriginal Affairs and Northern Development 2012, 9).

Wilson Raybould's testimony illustrates New Public Management's inadequacy in fostering authentic nation to nation relationship. First Nation communities need the authority to design and implement their own accountability mechanisms based on their particular circumstances. Unfortunately, standardized performance-based measures within INAC and the Treasury Board do not allow for much deviation. While her community created their own financial management law under the First Nations Fiscal Management Act, there are strict requirements and pre-conditions before a community can qualify for this process. As a result, some communities cannot access the tools that enable their increased self-determination because they are constrained in meeting complex standardized measures that are inherently illegitimate in their community's eyes.

Beverly Brown, Squamish First Nation, British Columbia

Beverly Brown appeared as a witness before the Senate Standing Committee on Aboriginal Peoples to discuss her perspectives, as a community member, on Bill C-27. Three discernible themes were pulled from her testimony: mistrust towards community leadership and government, consultation, and commitment to community accountability and transparency.

Brown believes there was a longstanding lack of accountability and transparency within Squamish First Nation's leadership. Her deep mistrust is evident throughout her testimony, particularly when she discusses the community's financial state and the management of band owned businesses. Despite repeated attempts, she alleged the community's leadership denied her requests for the community's financial information. She stated:

We deserve to know what our chief and council pay themselves, their travel, honorariums, et cetera, because it comes out of our own-source revenues. We, the people of the Squamish Nation, have never been told directly the true revenue figures [...] The Squamish Nation leadership, chief and council, our elected officials, brag to the media about our own-source revenue flow and the public knew our own revenues before we did. We only know what they disclose publicly (Standing Senate Committee on Aboriginal Peoples 2013, 85).

Brown is also mistrustful towards the Crown. She believes the federal government's economic development initiatives are under-handed mechanisms to access First Nation community lands and resources. As she says, "The government and the Crown, in plain view, are using the federal board known as chief and council to convert our lands, resources, assets and people, and this is wrong. It goes against the duty of the Crown vis-a-vis our relationship" (Standing Senate Committee on Aboriginal Peoples 2013, 85).

Government consultation and engagement must include community member perspectives, argued Brown. She criticized both the Squamish First Nation leadership and the federal government for failing to consult community members on Bill C-27. She alleged in her testimony that "All of this has been done privately between the government and Chief and Council, without the people. This type of trickery has to stop. This needs to be regulated and proper consent, authority and approval obtained from the people—all people in each nation, not just the Squamish Nation (Standing Senate Committee on Aboriginal Peoples 2013, 83). In spite of this, however, she still supported the proposed legislation in principle. She explained that "anything that makes this information public is a step in the right direction" (Standing Senate Committee on Aboriginal Peoples 2013, 93).

Self-determination is a prevalent theme in Brown's testimony. She believed communities should retain some control over their accountability and transparency mechanisms despite the government's top-down approach in Bill C-27. In response to a question regarding the scope and depth of financial audits required under Bill, she stated: "I would feel better if it covered own source revenues, but within reason. I do not think they want the government regulating

everything. I think they want to have something to themselves” (Standing Senate Committee on Aboriginal Peoples 2013, 94). Brown is also unsure how long the regulations should be in place. She noted, “I do not know that I want it to be long term, and perhaps there is another way to look at it, but I feel like Bill C-27 is a step in the right direction” (Standing Senate Committee on Aboriginal Peoples 2013, 95).

Analysis of Indigenous Reactions

A community’s position on Bill C-27 does not necessarily reflect their stance on improving accountability. This is demonstrated by a commitment to accountability and transparency shared among the three testimonies, despite their different outlook on the legislation. All three witnesses also touched on the importance of community autonomy in designing accountability mechanisms that suit their needs. Chief Bear spoke of his negotiation with the federal government in retaining the power to hire their own external financial expertise to avoid third-party management. Chief Wilson-Raybould spoke of her community’s successful experience in developing their own constitutional and financial administration law. Beverly Brown recognized the potential for alternative approaches and the need for greater flexibility in the legislation, despite her support for increased government regulation.

The concepts of legitimacy and accountability in First Nation community governance are not new and have been well studied. The Harvard Project on American Indian Economic Development is an ongoing research project that investigates “the conditions under which sustained, self-determined social and economic development is achieved” in America’s First Nation communities (The Harvard Project on American Indian Economic Development 2015). Stephen Cornell and Joseph Kalt founded the project in 1987. While an American-based initiative, the Harvard Project has been instrumental in advancing Canadian research in First Nation self-governance. Cornell wrote a research paper that looked at the foundations and necessary pre-conditions of self-governance in Canada. He argued that maximizing accountability between First Nation leaders and their communities alone is a relatively straightforward policy achievement. However, he contends that if the objective is to maximize First Nation self-governance, the task is far more complex. He explains:

Research on U.S. cases strongly suggests that accountability alone is not enough to insure either that institutions have community support or that they effectively serve community interests. To accomplish these goals, governing institutions must not only be accountable

to their communities. They must also have the legitimacy in the eyes of those communities, and accountability and legitimacy are not the same thing (Cornell 1993, 2).

As a result, institutions with robust accountability procedures will fail if they are “unable to maintain the allegiance of the people or to mobilize the community effectively in support of government policy, development strategy, or collective action” (Cornell 1993, 8). Consequently, many of Canada’s First Nation communities suffer from ineffective governance as there is no community legitimacy behind their institutions. Without legitimacy, communities will be “continually second-guessing and overturning governmental actions” which inhibits the development of “coherent long-term” policies (Cornell 1993, 9). He stated:

Accountability without legitimacy means the community will be continually second-guessing and overturning governmental actions, and government itself ultimately will be unable to pursue effective, coherent long-term set of policies, not because it is unaccountable, but because as a set of institutions, it lacks the support of its own people (Cornell 1993, 9).

Cornell further argues that to institute successful accountability between First Nation governments and their members “both the relationships of accountability and the procedures through which accountability is maintained themselves must each have legitimacy within the tribal community” (Cornell 1993, 9).

Canada’s diverse Indigenous population is at odds with New Public Management’s focus on standardization and centralization. As Cornell noted, institutions “must have legitimacy in the eyes of those communities, and accountability and legitimacy are not the same thing”. Wilson-Raybould’s testimony highlighted this disconnect. She also pointed out that Bill C-27 does nothing to institute accountability procedures in communities. She explained it only provides transparency for aggregated financial data, which she does not describe as being an inherently bad thing. However, she asked the committee to consider what a community member is to do with this information if there are no formal and legitimate mechanisms to hold leaders to account.

Consultation and engagement with First Nations is a critical step towards increased self-determination. Communities know their localized needs best. Simply put, there is less legitimacy if their insight is excluded from policy development. As long as the federal government dictates the process, First Nation communities will remain subservient to the Crown through a complex web of policies introduced under the rubric of New Public Management. In this light, the strong

negative reaction to Bill C-27 is understandable as the bill's top-down approach reinforced paternalistic relations with First Nation communities.

CHAPTER 6 - CONCLUSION

How have Canada's Indigenous accountability policies changed from 2006 to 2016? In many respects, they have changed a great deal, and in other ways they have not. As discussed up until this point, some of the changes were inherently positive, such as the availability of more tailored funding models using the revised funding authorities based on a community's risk score. However, reporting requirements remain burdensome despite some savings from the administrative consolidation in the early stages of the reduction initiative. Moreover, community's will remain subservient to the Crown's program objectives as long as they are subject to external performance audits, which are not necessarily disputed. Performance audits are simply a financial risk management tool under New Public Management. Unfortunately, Indigenous perspectives are often excluded in shaping performance requirements (some of which remain redundant) which only reinforces the paternalistic narrative that shrouds the Crown's relationship with Canada's First Nation communities. More importantly, however, accountability relationships under New Public Management do not align with how most communities envision a nation to nation relationship. The two concepts are simply incompatible. Public promises of a nation to nation relationship with First Nation communities are nothing more than hollow rhetoric as long as there is a donor-recipient funding relationship linked to strict performance requirements.

New Public Management will likely remain the dominant administrative model for some time. This is why meaningful consultation and engagement with Indigenous peoples is an important interim measure on the path to future administrative reform. However, bridging the gap between the Trudeau government's political desires and the administrative limitations of New Public Management will require significant effort on the part of politicians and civil servants. Former Parliamentary Budget Officer (PBO) Kevin Page touched on this point in his recent book, *Unaccountable: Truth and Lies on Parliament Hill*.

His book documents his time as Canada's first PBO during the Conservative administration under Stephen Harper. He believes that years of acquiescence and indifference by the public, politicians, and civil servants has paralyzed our democratic institutions from effectively serving the interests of Canadians. He noted: "Sadly, I sense that many Canadians,

civil servants included, have settled into a place of indifference. We are disconnected from our parliament. We have lost trust in political leaders and public servants. Our collective response, increasingly, is to turn our heads, look the other way, shrug our shoulders, and hope that somehow all will be well” (Page 2015, 7). Page stresses the need for public service reform to move passed the level of widespread indifference he observes. He noted: “The public service in Canada needs an overhaul. Normal isn’t good enough. Canadians cannot accept the old ‘just following orders’ justification that has permeated many levels of the public service within our country” (Page 2015, 175).

Public service indifference may have played a role in the FNFTA’s flawed consultation process. One civil servant placed the FNFTA’s poor consultation record squarely on the shoulders of public servants, not the government. In response to probing about whether political pressure led to a rushed consultation process, they responded:

I honestly don’t know. It was self-evident that when you pass laws in Canada, you have to talk to First Nations. That if it impacts them, you have to talk to First Nations. That’s not new, right? I don’t know if we provided advice that wasn’t taken, I guess that’s one thing that could have happened but it just seemed to me that we all knew it was coming, we all knew there was going to be pressure to create some kind of law, it would seem to me that we should have gone out and consulted on what the law would be, right? And we were involved in it because so much of that law was basically our funding agreements.

The point being that Indigenous perspectives must be directly and extensively involved in the development of policies that affect them. However, achieving a nation to nation relationship as envisioned by some Indigenous leaders is a formidable task, and it is an end goal that New Public Management as represented in the Canadian federal administration is structurally ill-suited for. This does not suggest that NPM prevents Canada from one day realizing a nation to nation relationship. It suggests that the current mix of New Public Management with elements of traditional top-down public administration is incompatible with a nation to nation relationship.

The pathway to reconciliation is a dynamic one. Expectations do not always align and challenges will inevitably arise. In this light, a nuanced and phased approach with First Nation communities and Indigenous organizations could be a reasonable path to reconciliation. Co-policy development with First Nation communities and Indigenous organizations is one suggested approach and has been gaining traction within policy circles. Moreover, co-policy development with Indigenous bodies would complement the current menu of opt-in legislation available to First Nation communities such as the First Nations Fiscal Management Act (FNMA)

and the First Nations Election Act (FNEA) that enable increased community control over certain elements of their governance (Indigenous and Northern Affairs Canada 2015a; Indigenous and Northern Affairs Canada 2016a). For example, under the FNMA, First Nation communities can opt-in to the legislation to create their own Financial Administration Law (FAL).¹¹

Academics such as Ken Coates and Blaine Favel believe co-policy development is the logical next step in consultation and engagement with First Nation communities, particularly in the natural resource sector. They set out their vision for co-policy development in response to Canada's recent adoption of the United Nations Declaration on Indigenous Peoples. Their made-in-Canada approach has five different key elements. First, the Government of Canada and all major Indigenous organizations should develop "a common declaration or public statement that articulates support for the spirit and intent underpinning the UN Declaration on the Rights of Indigenous Peoples as it relates to resource development" (Coates and Favel 2016, 23). The statement should reflect a united commitment to national prosperity sharing with Indigenous peoples. Secondly, The Government of Canada, the provinces, and territories must work with "Indigenous organizations and peoples" to define "how the 'national interest' intersects with the interests of a specific Indigenous community or group with regard to resource development" (Coates and Favel 2016, 23). Third, the Government of Canada, provinces, and territories, and Indigenous Organizations, must "negotiate a national framework (or regional ones) to "capture provincial and territorial circumstances" on Indigenous participation in resource development (Coates and Favel 2016, 24). Fourth, Canada must develop a "decision making and conflict resolution system that is culturally sensitive, timely and fair" (Coates and Favel 2016, 24). Fifth, Indigenous communities could develop a declaration that defines what Free, Prior and Informed Consent means to them. They could also develop an accompanying framework and Indigenous licenses that "sets out Indigenous requirements and expectations for participation in resource development". They believe the Indigenous developed framework should:

1. Reflect regional and local priorities.
2. Establish minimum standards for consultation and accommodation.
3. Have consultation and approval processes that reflect community requirements and needs.

¹¹ An FAL, in essence is a set of community developed financial rules and best practices that "govern the decision making, management, monitoring and reporting" of the First Nation's financial administration (First Nation Financial Management Board 2014).

4. Set boundaries around resource development near sacred and culturally significant sites.
5. List expectations “in terms of employment, training, education, and resource sharing.
6. List “requirements concerning environmental evaluation, monitoring and mediation”(Coates and Favel 2016, 24).

Coates and Favel recognize that developing and implementing their recommendations is easier said than done but not entirely impossible. The political climate at the federal level is well suited to undertake a process of Indigenous focused co-policy development. More importantly, the point of their recommendations is to provide clarity around what UNDRIP and free prior and informed consent mean for Canada’s Indigenous peoples and Canadians. Indigenous peoples need to define what consent means to them and how it should be undertaken. Otherwise, they argue, there will be persistent roadblocks with moving resource and economic development forward in Canada.

The co-development process Coates and Favel describe provides some helpful insight into how Canada’s New Public Management could be improved on to better suit First Nation communities. For instance, the development of a national or regional frameworks could include the development of relevant performance measures for First Nation program evaluation. While it still enables direct government oversight over First Nation communities, it gives First Nation communities and Indigenous organizations greater power in the evaluation process.

The Trudeau government will be initiating consultation sessions with First Nation communities shortly to discuss Canada’s accountability relationship with them. This could be a real opportunity for Indigenous peoples and organizations to shape the development of a future administrative framework that enables and supports their self-determination. It will not be easy and there is bound to be resistance by various groups but these difficult discussions must happen, grievances need to be aired, and the government needs to be patient. We, collectively as a country, should not turn away from having tough discussions simply because they are difficult. Canada’s democratic institutions are inefficient and no longer serving the interests of all Canadians. Indigenous peoples are suffering unnecessarily. It is time to move Canada further away from the shackles of its paternalistic past and move into an era that is defined by its partnership and collaboration with Indigenous peoples.

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ADDENDA

Addendum 1: INAC Semi-Structured Interview Questions

Question #1: Please tell me your name and your position.

Question #2: How long have you been in your current role, and how long have you been with Indigenous Affairs and Northern Development Canada (INAC)?

Question #3: Tell me a little bit about your role, what you do, some of your responsibilities, and what brought you to INAC.

Reporting Requirements

Question #1: Please walk me through some of the major steps INAC has taken to streamline program reporting requirements for First Nation communities since the [Auditor General's last update in February 2014](#).

- a) Have these efforts reduced the overall number of reporting requirements for First Nation communities—yes or no, and why?
- b) Approximately how many federal reports are required from the average First Nation community?
- c) Do you have anything further you would like to add?

Balance of Federal Government Accountability and Local Autonomy

Question #1: Please describe acceptable accountability standards that INAC administrators look for in First Nation communities when developing funding agreements.

- a) Do you have anything further you would like to add?

Question #2: Did First Nation community authority over financial and administrative policies increase or decrease over the last ten years? Do you agree or disagree, and why?

Question #3: Would you describe some of the Indigenous accountability policies implemented over the last ten years as bureaucratically based or performance evaluation based, or a mix of both?

- a) What are some examples of current bureaucratic federal Indigenous accountability policies?

- b) Some mainstream commentators in the media characterize the First Nation Financial Transparency Act (FNFTA) as a top-down bureaucratic measure—would you agree or disagree, and why?
- c) Do you have anything further you would like to add?

Participatory Governance

Question #1: Are any digital technologies used with First Nation communities to solicit their participation in federal policy development concerning their governance? (E.g. participatory budgeting; participatory decision making such as virtual town halls and consultations).

- a) If so, how would you describe its prevalence—very prevalent, somewhat prevalent, or not very prevalent?

Question #2: Do you see a future role for or growth in digital technology in strengthening First Nation community participation in federal policy development concerning their governance—yes or no, and why?

Addendum 2: 2010 Assembly of First Nations Resolution on Accountability and Transparency

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SPECIAL CHIEFS ASSEMBLY
DECEMBER 14, 15 & 16, 2010, GATINEAU, QC

Resolution no. 50/2010

TITLE:	First Nation Governments Demonstrating Accountability
SUBJECT:	Accountability
MOVED BY:	Grand Chief Doug Kelly, Proxy, Soowahlie First Nation, British Columbia
SECONDED BY:	Chief Paul Eshkakogan, Sagamok Anishnawbek First Nation, Ontario
DECISION:	Carried by Consensus

WHEREAS:

- A. Misperceptions and inaccurate information regarding the accountability of First Nations governments continue to be perpetrated among policy makers, in Parliament and the Senate, and through the media.
- B. The Auditor General has noted on numerous occasions that First Nations government reporting greatly exceeds that of comparable institutions.
- C. First Nations provide a minimum of 168 different financial reports to the four major funding departments (INAC, Health Canada, HRSDC and CMHC). INAC alone receives over 60,000 reports from First Nations annually.
- D. Many First Nations have adopted clear professional standards, including ISO certification.
- E. The level of disclosure of First Nation governments often is greater than that of other elected representatives, particularly Members of Parliament.
- F. Bill C-575: *First Nations Fiscal Transparency Act* is both unnecessary and heavy handed:
 - Unnecessary as First Nations are already required to report on matters covered in the bill through contribution agreements with the federal government;
 - Heavy-handed in that enforcement provisions enable costly and unnecessary legal proceedings wherein the Minister is authorized to apply to superior court for enforcement which will serve to only further exasperate an already adversarial relationship.

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THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Re-affirm their commitment to maintaining transparent and accountable decision-making structures in their communities.
2. Confirm that their primary reporting and accountability relationship is to their citizens, and that they will design mechanisms to ensure open and informed involvement in community decision-making.
3. Choose to lead by example and demonstrate to other orders of government processes for accountability, including:
 - a. Providing clear and timely access to audits and public accounts;
 - b. Itemizing and publicly disclosing salaries, honoraria and expenses associated with the operations of Chief & Council;
 - c. Ensuring information about community finances and decision-making is easily accessible, and available via the internet where applicable.
4. Direct Canada to work with First Nations in the genuine interest of accountability and support joint efforts towards the development of specific First Nation governance institutional capacity such as a First Nations ombudsperson and / or Auditor-General function as mandated and advanced by the Assembly of First Nations and Chiefs-in-Assembly in 2006.

Source: Assembly of First Nations, 2010

Addendum #3: INAC's Funding Approaches under the New Transfer Payments Policy

Funding	Treatment of Unspent Funds	Redirection of Funding To Other Programs or Projects During Agreement	Criteria for AANDC Recovery of Funding
Grant	Can be retained by the recipient	Grant is to be used for any expenditure related to the purpose, activity or initiative being	Recipient becomes ineligible
Set Contribution	Returned at end of each year	Funds are to be expended as identified in the funding agreement. Cannot be redirected to	Funding is unspent or spent on ineligible items
Fixed Contribution Aboriginal recipients only	Returned annually unless used in the next year in the same program. Can also be kept and used in other areas if a plan outlining the activities to be undertaken with the unspent funds is approved by the department prior to use.	Funds are to be expended as identified in the funding agreement. Cannot be redirected to other programs or projects.	A plan is not provided/not approved where required, or Funding is not spent within timeline, or is spent on ineligible items

Flexible Contribution Aboriginal recipients only	Carried forward each fiscal year during the agreement or the project; and returned at end of agreement or project whichever comes first	Funds are to be expended as identified in the funding agreement and cannot be redirected to other programs or projects. Funds may be redirected between cost categories in the project as defined in the funding agreement.	Funding is unspent at the end of project or agreement or is spent on ineligible items
Block Contribution Aboriginal recipients only	Can be kept if used for activities in the block. Can also be kept for other activities outside the block if a plan outlining the activities to be undertaken with the unspent funds is approved by the department prior to use	Redirection of funding is allowed among any and all programs included in the block during the life of the agreement, subject to delivery standards being met.	A plan is not provided/not approved where required, or Funding is not spent within timeline, or is spent on ineligible items

Source: Indigenous and Northern Affairs Canada, 2011b

Addendum #4: Exemption Certificate



To: Kenneth Coates, Ph.D.
Johnson Shoyama Graduate School
University of Saskatchewan

Student: Andrew Swift

Date: April 7, 2016

Thank you for submitting your application entitled "**Assessing Changes to Canadian Indigenous Accountability Policies, 2006-2016**". The application meets the requirements for exemption status as per **Article 2.5 of the Tri-Council Policy Statement (TCPS): Ethical Conduct for Research Involving Humans, December 2014**, which states *"Quality assurance and quality improvement studies, program evaluation activities, and performance reviews, or testing within normal educational requirements when used exclusively for assessment, management or improvement purposes, do not constitute research for the purposes of this Policy, and do not fall within the scope of REB review."*

It should be noted that though your project is exempt of ethics review, your project should be conducted in an ethical manner (i.e. in accordance with the information that you submitted). It should also be noted that any deviation from the original methodology and/or research question should be brought to the attention of the Behavioural Research Ethics Board for further review.

Please revise the applicable documents (i.e. recruitment and consenting documents) to reflect an exemption from the REB or delete the sections regarding REB approval.